Mr Justice Clifford

SUPREME COURT OF THE UNITED STATES.

No. ~~233.~~ 165

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, AND ALEXANDER NIMICK, PARTNERS, DOING BUSINESS UNDER THE NAME OF JONES, WALLINGFORD & CO., APP'TS,

vs.

JAMES K. MOREHEAD, LAURESTON R. LIVINGSTON, WM. B. COPELAND, CALVIN ADAMS, AND DAVID McKEE, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF LIVINGSTON, COPELAND & CO.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

GOVERNMENT PRINTING OFFICE.

183

# SUPREME COURT OF THE UNITED STATES.

## No. 233.

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, AND ALEXANDER NIMICK, PARTNERS, DOING BUSINESS UNDER THE NAME OF JONES, WALLINGFORD & CO., APP'TS,

vs.

JAMES K. MOREHEAD, LAURESTON R. LIVINGSTON, WM. B. COPELAND, CALVIN ADAMS, AND DAVID McKEE, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF LIVINGSTON, COPELAND & CO.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

INDEX.


| | Original. | Print. |
|---|---|---|
| Subpœna and bill filed | 1 | 1 |
| Bill | 5 | 2 |
| Answer | 22 | 15 |
| Rep'lication | 43 | 22 |
| Cross bill | 45 | 23 |
| Answer to ditto | 73 | 33 |
| Orders of court | 80 | 40 |
| Deposition of Van Hœvenburgh | 82 | 41 |
| " J. L. Culver | 84 | 42 |
| " A. B. Stoughton | 86 | 44 |
| " T. H. Upperman | 93 | 49 |
| " W. Blakewell | 95 | 52 |
| Exhibit A—H. Sproul | 101 | 56 |
| " B—Geo. Downing | 107 | 61 |
| " A—Geo. Downing | 107 | 61 |
| " U—H. Sproul | 108 | 62 |
| " B " | 111 | 64 |
| " D " | 113 | 65 |

| | Original. | Print. |
|---|---|---|
| Exhibit R 1—H. Sproul | 115 | 67 |
| " T " | 116 | 68 |
| " S " | 122 | 72 |
| " A and B—W. B. Webb | 125 | 75 |
| " C—H. Sproul | 125 | 75 |
| Deposition of C. Brady | 127 | 76 |
| " J. Robinson | 128 | 77 |
| " S. Herring | 129 | 78 |
| " J. L. Roome | 129 | 79 |
| " P. McCaffrey | 130 | 79 |
| " Amzi Hill | 131 | 80 |
| " S. S. Day | 136 | 85 |
| " J. H. Bull | 138 | 86 |
| " H. B. Renwick | 140 | 88 |
| " A. Patterson | 142 | 90 |
| " H. P Hamblin | 146 | 93 |
| " N. McIntire | 148 | 95 |
| Amended bill | 151 | 97 |
| Opinion | 154 | 99 |
| " | 157 | 101 |
| Order | 160 | 104 |
| Abstract of evidence before master | 161 | 104 |
| Master's report | 173 | 113 |
| Final opinion | 175 | 114 |
| Decree | 189 | 118 |
| Appeal | 189 | 118 |
| Clerk's certificate | 190 | 119 |

285.

Among the rolls, records, and judicial proceedings of the
1 circuit court of the United States for the western district of Pennsylvania, in the third circuit, may be found the following words and figures, viz:

JAMES K. MOORHEAD, LARESTON, R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, and DAVID MCKEE, partners, doing business under the name and style of Livingston, Copeland & Co.,

*vs.*

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMMICK, and ALEXANDER NIMMICK, partners, doing business under the name of Jones, Wallingford & Company.

The complainants, by their counsel, on the fourth day December, A. D. 1857, come and file the following bill and the following subpœna issued.

2 UNITED STATES OF AMERICA,
*Western District of Penn'a, ss:*

The President of the United States to J. Hervey Jones, Alexander M. Wallingford, William K. Nimmick, and Alexander Nimmick, partners, doing business under the name of Jones, Wallingford & Company.

For certain causes offered before the circuit court of the United States in and for the western district of Pennsylvania, in the third circuit, in the bill in equity of James K. Moorhead, Lareston R. Livingston, William B. Copeland, Calvin Adams, and David McKee, partners, doing business under the name and style of Livingston, Copeland & Co.

We command and strictly enjoin you and each of you that, laying aside all other matters and notwithstanding any excuses, you personally be and appear before the judges of the said court, at a session of the same court to be holden at Pittsburg on the first Monday of January next, to answer concerning those things which shall
3 then and there be adjusted against you and do further and receive what the said court shall have considered in this behalf. And this you are in nowise to omit under the penalty of ten thousand dollars.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Pittsburg, the 4th day of December, A. D. 1857, and of the independence of the United States the 82d.

H. SPROUL, *Clerk.*

The defendants are required to enter an appearance in this suit on or before the return day of this *of this* writ, otherwise the bill may be taken pro confesso.

Copy of return upon this writ: December 4th, 1857, served personally by copy on Alexander Nimmick, and leaving a copy of the same for William K. Nimmick.

JAMES G. CAMPBELL, *Mar.*,
By B DOUGHERTY, *Dep't.*

4 December 5, 1857, served personally by copy on Alex. M. Wallingford, and by leaving a copy of the same for J. Hervey Jones.

JAMES G. CAMPBELL,
*U. S. Marshall,*
B. DOUGHERTY, *Dep't.*

5 In the circuit court of the United States for the western district of Pennsylvania.

JAMES K. MOORHEAD *et al.*
*vs.*
J. HERVEY JONES *et al.*

*Complainants' bill.*

UNITED STATES OF AMERICA,
*Western District of Pennsylvania:*

JAMES K. MOORHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS and DAVID M'KEE, partners, doing business under the name and style of Livingston, Copeland & Co.,
*vs.*
J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, and ALEXANDER NIMICK, partners, doing business under the name of Jones, Wallingford & Co.

Circuit court of the United States for the western district of Pennsylvania. No. 1, May T., 1858. In equity.

*To the honorable the judges of the circuit court of the United States for the western district of Pennsylvania:*

James K. Moorhead, Laureston R. Livingston, William B. Copeland, Calvin Adams and David M'Kee, citizens of said district, doing business under the name and style of Livingston, Copeland & Co, bring this bill of complaint against J. Hervey Jones, Alexander
6 M. Wallingford, William K. Nimick and Alexander Nimick, partners, doing business under the name of Jones, Wallingford & Co.

And thereupon, the said complainants complain and say: That before the 17th day of December, 1842, one John P. Sherwood was the original inventor of a certain new and useful improvement in door-locks, which had not been known or used before his invention thereof, and being such inventor, and a citizen of the United States, he made application, in due form of law, to the Commissioner of Patents for letters patent therefor, and on the 17th day of December, 1842, letters

patent of the United States were issued to the said Sherwood, in due form of law, for said improvement; granting to him, his heirs, administrators or assigns, for the term of fourteen years from the said 17th day of December, 1842, the full and exclusive right and liberty of making, constructing and using and vending to others to be used, the said improvement; a description and specification whereof were annexed to the said letters patent.

That afterward the said letters patent were, in due form of law, assigned and transferred to the complainant, Calvin Adams.

That afterward the said Calvin Adams surrended the said original letters patent, and new letters patent for the same improvement were issued to him for the unexpired term of the original patent, which said new letters patent were dated the 13th day of May, 1851.

That in October, 1855, the term of the original letters patent having nearly expired, and the said Sherwood intending to make application for an extension thereof, and the said Calvin Adams desiring to obtain the exclusive right to said patented improvement for and during the extended term thereof, an agreement was made by and between the said Sherwood and Adams, as follows:

Whereas, John P. Sherwood, of Fort Edward, Washington county, State of New York, did obtain letters patent for an improvement in door-locks, which letters patent bear date December, 1842; and whereas, Calvin Adams, of Oak Hill, county of Greene, State of New York, did purchase the said John P. Sherwood's whole right and title to said patent, by assignment duly made November, 1850; and whereas, the said John P. Sherwood has this day petitioned the Commissioner of Patents for an extension of said patent, to be issued to said Calvin Adams: Now this indenture witnesses, that the said John P. Sherwood agrees to aid the said Calvin Adams in obtaining the extension of the said patent by signing his name to any paper
7 or article that he, the said John P. Sherwood, can conscientiously subscribe to, for the furtherance of his claim to extension; and further agrees to go to Washington city, if desired to go by the said Calvin Adams or his legal representatives. The said Calvin Adams, or his representatives, paying all necessary expenses. And for and in consideration of the above petition for extension, for the assignment of the right to the extension, and for the agreement to assist in obtaining the extension, the said Calvin Adams has this day paid the said John P Sherwood the sum of five hundred dollars; and the said Calvin Adams obligates himself and his legal representatives to pay to the said John P. Sherwood, or his legal representatives, the further sum of five hundred dollars, at the Fort Edward bank, within ten days from the time that the said extension is granted, agreeable to the law for extending patents made and provided.

JOHN P. SHERWOOD. [L. S.]
CALVIN ADAMS. [L. S.]

Signed, sealed and delivered in the presence of, "at the Fort Edward bank," interlined before execution—

M. H. GARDNER, *Albany, N. Y.*
T. S. VAN HOEVENBURGH, *Albany, N. Y.*

On the same day, the said Sherwood made and delivered to the said Adams an assignment of the exclusive right in said invention and the extension thereof, as follows:

Whereas, I, John P. Sherwood, of Fort Edward, in the county of Washington, State of New York, did obtain letters patent for an extension of a patent, granted the 17th day of December, 1842, for an improvement in door-locks: Now this indenture witnesseth, that for and in consideration of five hundred dollars to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold and set over unto Calvin Adams, of Oak Hill, Greene county, State of New York, all the right, title and interest which I have, or may have, in the said invention and extension as secured to me by said letters patent for extension; the same to be held and enjoyed by the said Calvin Adams for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which letters patent for extension are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had the assignment and sale not been made.

8 In testimony whereof, I hereunto set my hand and affix my seal, this day of October, 1855.

J. P. SHERWOOD. [L. S.]

Sealed and delivered in presence of witnesses:

M. H. GARNER, *Albany, N. Y.*
T. S VAN HOEVENBURGH, *Albany, N. Y.*

That afterward the said Adams, while prosecuting application for an extension, was informed by the Commissioner of Patents that the act of Congress only authorized an extension to be made in the name of the original inventor, and not to the assignee; and that the rules of the office required the inventor to have the patent at the time of extension, in order that the extension might be certified thereon; and that, to obtain an extension, it would be necessary for him, the said Adams, to assign the patent to Sherwood.

Accordingly, the said Adams, on the 16th of September, 1856, did assign the said patent for the unexpired term to the said John P. Sherwood, by an instrument of writing as follows:

This indenture, made this 16th day of September, in the year of our Lord one thousand eight hundred and fifty-six, between Calvin Adams, (now) of Oak Hill, in the county of Greene, and State of New York, of the first part, and John P. Sherwood, of Fort Edward, Washington county, in said State, of the second part:

Whereas, letters patent of the United States were granted on the 17th day of December, 1842, to said John P. Sherwood for an improvement in door-locks; and whereas, the said letters patent were surrendered, and on the 13th day of May, 1851, reissued to Calvin Adams: Now, this indenture witnesseth, that the said party of the first part, for and in consideration of the sum of one dollar, to him in hand paid by the said party of the second part, the receipt whereof is

hereby acknowledged, hath assigned, sold and set over, and by these presents doth assign, sell and set over, unto the said John P. Sherwood, all his right, title and interest in said invention, as secured to him, the said Calvin Adams, by said reissued letters patent. The same to be held and enjoyed by the said John P. Sherwood, for his own use and behoof, and the use and behoof of his legal representatives, to the full end of the term for which said letters patent are granted, to wit: until the 17th day of December, A. D. 1856, as fully and entirely as the same would have been held and enjoyed by the said Calvin Adams had this assignment and sale not been made. And the said Calvin Adams doth hereby request the Commissioner of Patents to reissue the said patent to the said John P. Sherwood.

In testimony whereof, the said Calvin Adams hath to these presents set his hand and seal the day and year first before written.

CALVIN ADAMS. [L. S.]

Sealed and delivered in presence of (the words "desirous of obtaining an interest therein," on the 11th line, and the word "part" on the last line but one, being erased, and the words "Calvin Adams," on the last line but one, interlined, before the execution hereof.)

H. P. HAMLIN,
W. BAKEWELL.

STATE OF NEW YORK, *Washington County, ss.*

Before me, the subscriber, a proper authority, personally appeared the above-named Calvin Adams, who acknowledged the foregoing instrument of writing to be his act and deed, for the purposes therein set forth, desiring the same to be recorded as such in the United States Patent Office, and elsewhere.

Witness my hand and seal this day of September, A. D. 1856.

NICKOLAS M'INTYRE, [L. S.]
*Justice of the Peace.*

That for the purpose of amending the defective and insufficient description and specification which were annexed to said letters patent, the said John P. Sherwood returned and surrendered the said letters patent to the Commissioner of Patents for correction and reissue, which surrender being accepted, and all the requirements of the law being complied with, on the seventh day of October, 1856, new letters patent (Reissue No. 401) were issued, in due form of law, to the said Sherwood, for the residue of the then unexpired original term for which said original patent was granted, in accordance with the corrected description and specification, as will more fully appear by reference to a true copy of said letters patent—Reissue No. 401, filed herewith as an exhibit, marked A, and made part of this bill.

And your complainants represent that, on the 24th day of September, in the year one thousand eight hundred and fifty-six, the said John P. Sherwood made and delivered to the complainant, Calvin Adams, a new assignment of the extension of said patent, as follows, to wit:

10 Whereas, letters patent of the United States were granted on the 17th day of December, 1842, to John P. Sherwood, of Sandy Hill, now of Fort Edward, in the county of Washington and State of New York, which letters patent were on the 13th day of May, A. D. 1851, reissued to Calvin Adams, of Pittsburgh, in the State of Pensylvania, now of Oak Hill, in the county of Greene and State of New York; and whereas, said Calvin Adams did, on the 16th day of September, 1856, re-assign said letters patent to said John P. Sherwood; and

Whereas, said John P. Sherwood is about to apply to the Commissioner of Patents for an extension of said letters patent, for the term of seven years from the expiration of the first term of said letters patent:

Now, therefore, these presents witness, that the said John P. Sherwood, for and in consideration of the sum of six hundred and twenty dollars, to him in hand paid by the said Calvin Adams, the receipt whereof he doth hereby acknowledge, and of the further sum of three hundred and eighty dollars, to be paid by said Adams to said Sherwood, in the event of the extension of said letters patent, as aforesaid, hath assigned, transferred and set over, and by these presents doth assign, transfer and set over unto the said Calvin Adams, his executors, administrators and assigns, all the right, title and interest which he, the said John P. Sherwood, hath, or may have, as secured to him by letters patent of the United States, or to his executors or administrators, on the extension thereof, for the term of seven years, as aforesaid, being all the interest of said Sherwood, his executors or administrators, in and to said invention, from and after the expiration of the first term of said letters patent, for and during the full term for which said letters patent may be extended. The same to be held and enjoyed by the said Calvin Adams, and his legal representatives, for his and their own use and behoof, for and during the full term of seven years aforesaid, from the 17th day of December, 1856, the date of the expiration of the first term for which said letters patent were granted or reissued.

And the said John P. Sherwood, for himself, his executors and administrators, hereby covenants and agrees that so soon as said letters patent are extended, he will, on payment to him of said further sum of three hundred and eighty dollars, or so much thereof as shall then remain unpaid, execute and deliver to said Calvin Adams, or his legal representatives, a further assurance or release of all his right, title and interest in said invention and letters patent as extended.

In testimony whereof, the said John P. Sherwood hath hereunto set his hand and seal, this 24th day of September, in the year 1856.

JOHN P. SHERWOOD, [L. S.]

11 Sealed and delivered in presence of us. (The words "an extension of said," on the 12th line of 1st page, being written over an erasure, and the words "doth hereby," on the 15th line of 1st page, erased before execution.)

H. P. HAMBLIN.

W. BAKEWELL.

COUNTY OF WASHINGTON,
*State of New York, ss:*

Before me, the subscriber, a justice of the peace in and for said county, personally came the within-named John P. Sherwood and acknowledged the foregoing instrument of writing to be his act and deed, desiring the same to be recorded in the United States Patent Office, or elsewhere.

Witness my hand and seal, this 24th day of September, A. D. 1856.

NICHOLAS M'INTYRE, [L. S.]
*Justice of the Peace.*

Which said assignment was duly recorded in the United States Patent Office, on the 16th day of December, 1856.

And your complainants further represent that the said John P. Sherwood, pursuant to the provisions of the act of Congress in such case made and provided, did present to the Commissioner of Patents a petition for the extension of the aforesaid patent granted to him on the 17th day of December, 1842, and reissued on the 7th day of October, 1856, whereupon such proceedings were had by said Commissioner, pursuant to the provisions of the act of Congress in such case made and provided, that the said Commissioner did certify in due form of law that the said patent ought to be extended, and did renew and extend said patent, by making a certificate thereon of such extension for the term of seven years from and after the expiration of the first term, to wit: from the 17th day of December, 1856, which certificate being duly entered of record in the Patent Office, the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years.

Which certificate is as follows, to wit: Whereas, upon the petition of John P. Sherwood, of Fort Edward, New York, for an extension of the within patent granted to him on the 17th day of December, 1842, and reissued the 7th day of October, 1856, the undersigned, in accordance with the 18th section of the act of Congress approved the 4th day of July, 1836, entitled, "An act to promote the progress of the useful arts, and to repeal all acts heretofore made for
that purpose;" and the act approved the 27th day of May,
12 1848, entitled, "An act to provide additional examiners in the
Patent Office, and for other purposes," did on the 15th day of December, 1856, certify that the said patent ought to be extended.

Now, therefore, I, Charles Mason, Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend the said patent, and certify that the same is hereby extended for the term of seven years from and after the expiration of the first term, viz: from the 17th day of December, 1856, which certificate being duly entered of record in the Patent Office, the same patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years.

{ SEAL OF THE PATENT OFFICE } In testimony whereof, I have caused the seal of the Patent Office to be hereunto annexed, this 15th day of December, 1856, and of the independence of the United States the eighty-first.

C. MASON, *Commissioner.*

And the said patent so extended, with the certificate of extension by the Commissioner thereon, was delivered to the said Calvin Adams, and is now in the possession of his assignees, the complainants, ready to be exhibited and produced on the hearing of this cause, or as the court may direct.

And the said Calvin Adams, prior to the said extension, had paid to said John P. Sherwood five hundred dollars, on the execution of the agreement in November, 1855, and one hundred and twenty dollars, part of the sum of five hundred dollars, which by the aforesaid agreement of October, 1855, he, the said Adams, obligated himself to pay within ten days from the time of the extension being granted; leaving three hundred and eighty dollars payable on the event of the extension of said letters patent, as specified in the assignment by said Sherwood to said Adams, dated the 24th day of September, 1856.

And afterward, on the 18th day of December, 1856, at the Fort Edward Bank, at Fort Edward, in the State of New York, the said Calvin Adams did tender to the said John P. Sherwood, and offered to pay him the full sum of five hundred dollars, in performance of the obligation, which sum the said John P. Sherwood then and there declined to receive into his own hand, but directed the said Adams to pay the same into the bank to his, the said Sherwood's, credit. And the said Calvin Adams did then and there, in the presence of said Sherwood, pay into the said bank, to the credit of said Sherwood, the sum of five hundred dollars, which said sum was
13 afterward received from said bank by the said Sherwood, and the said Adams did on his part, in all things, fulfil and perform the agreement on his part, for the purchase and assignment of said extended term.

And your complainants aver that by virtue of the aforesaid assignment to the said Calvin Adams, and the extension of the aforesaid patent by the Commissioner, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvement, specified and described in the said original patent and the reissued and extended patent, Reissue No. 401, became and was vested in the said Calvin Adams, his executors, administrators and assigns, for and during the extended term of seven years, from and after the expiration of the original patent aforesaid.

And that on the 3d day of January, 1857, the aforesaid exclusive right being vested in the said Calvin Adams, he, by an assignment in writing of that date, did assign, sell, and set over unto the firm of Livingston, Copeland & Co., of the city of Pittsburgh, State of Pennsylvania, all the right, title or interest which he had in said extended letters patent; which said last-mentioned assignment was duly re-

corded in the Patent Office, at the city of Washington, on the 12th day of January, 1857, and is as follows:

Whereas letters patent of the United States were granted 17th day of December, 1842, to John P. Sherwood, of Sandy Hill, (now of Fort Edward,) Washington county, State of New York, for improvement in door-locks;

And whereas, said John P. Sherwood did, on the 24th day of September, 1856, assign to Calvin Adams, of Oak Hill, Greene county, State of New York, all his right, title and interest in the extension of said letters patent:

Now this indenture witnesseth, that I the said Calvin Adams, for and in consideration of the sum of two thousand dollars, to me paid in hand, the receipt of which hereby acknowledged, I have assigned, sold and set over, and do hereby assign, sell and set over unto the firm of Livingston, Copeland & Co., of the city of Pitsburgh, State of Pennsylvania, all right, title and interest which I have in said extended letters patent, the same to be held and enjoyed by the said Livingston, Copeland & Co., for their own use and behoof, and for the use and behoof of their legal representatives, to the full end of the term for which said letters patent were extended, as fully and entirely as the same would have been held and enjoyed by me had the assignment not been made.

14 In testimony whereof, I hereunto set my hand and affix my seal, this third day of January, 1857.

CALVIN ADAMS. [L. S.]

In presence of AARON GIFFORD.
S. J. ADAMS.

Personally appeared before me, a justice of the peace of Greene county, State of New York, appeared the above-named Calvin Adams, and acknowledged that the within assignment was executed by him for the purpose therein set forth

OAK HILL, GREENE Co., N. Y.,
*January* 3*d*, 1857.

WM. PADDOCK, *Justice of the Peace.*

A duly certified copy of the last-mentioned assignment is herewith filed as an exhibit, marked C, and made part of this bill.

And your complainants also aver that on the 3d day of January, 1857, and from thence hitherto, they composed the firm of Livingston, Copeland & Co., and were then and (are) now doing business, as partners, under that name at Pittsburgh, in the State of Pennsylvania; and that by the last-mentioned assignment, the full and exclusive right or liberty of making, constructing using and vending to others to be used, the said invention and impvement described in the said original patent, dated the 17th day of December, 1842, and in the said reissued and extended patent, Reissue No 401, became and was, on the said 3d day of January, 1857, and still is, vested in them for the unexpired term of seven years, from and after the expiration of the first term, viz: from the 17th day of December, 1856, and to the same effect as if the patent had been originally granted for the term of twenty-one years.

And your complainants represent that the said improvements, in said original reissued and extended patent described, were of public utility, and valuable to the complainants; and that they have constructed door-locks having the said patented improvements, and have introduced them into public use in various parts of the United States, with profit to themselves, and to the benefit and advantage of the public, and that, but for the infringement hereinafter complained of, they would have been enabled greatly to extend the manufacture, sale and use of the said improvement, and to have derived large profits therefrom.

Until the said Calvin Adams became the assignee of said original patent, the said invention and improvement therein described had not been used or known to any great extent, but he and his partners and associates in business, and chiefly Livingston, Copeland & Co., by great diligence and at great expense, created market and demand for said invention and improvement, to the great benefit of the public.

And your complainants further represent that J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, citizens and residents of the western district of Pennsylvania, doing business at Pittsburg, as partners, under the name and style of Jones, Wallingford & Co., all of whom are made defendants hereto, since the date of the extension of said leters patent aforementioned, and since the assignment thereof to the complainants, on the 3d day of January, aforesaid, at Pittsburgh, within the western district of Pennsylvania, without the authority of the complainants, and against their will, have made and sold to others to be used, and are now making and selling to others to be used, the said invention and improvement in said extended letters patent described, in violation of the exclusive right vested in your complainants by the extension and assignments aforesaid.

And that the said defendants, without the authority and against the will of the complainants, are in possession of, and have for sale, and have made and sold, and are engaged at their manufactory, in Pittsburgh, in making and selling door-lock in great numbers, amounting annually to about two hundred and forty thousand, having substantially the same improvements invented by and patented to the said John P. Sherwood, and described and specified in said original letters patent, dated the 17th day of December, 1842, and said reissued patent, Reissue No. 401, extended as aforesaid, by the Commissioner of Patents, to wit: the improvement specified in the first claim of said extended patent, as follows, "making the case of door-locks and latches double faced, and so furnished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described in said patent"

And also door-locks having substantially the improvement specified in the second claim of said extended patent, to wit: "the peculiar construction and double action (upon an inclined or horizontal track or way) of the locking car B, as in the schedule of said patent described, and the combination of the locking car B, and safety cars G G with one another, and with the conecting or vibrating bar and bolt

A, as in said patent described, so as to fasten the bolt C securely and prevent its being picked."

And also the third claim of said patent, as follows: "so constructing the bolt as in said patent described, that by simply turning it over in the lock case it is adapted to a right or left hand door.

16 And complainants aver that since the said 3d day of January, 1857, the said defendants have made and sold, and have in their possession for sale, and they are now making and selling door-locks to a large amount, to wit: to the extent of two hundred and forty thousand annually.

Which door-locks are in their corresponding parts substantially the same in principle and mode of operation and effect as the aforesaid invention and improvements, described and specified in said original and extended patent, Reissue No. 401, in the first claim thereof, and are an infringement of the said extended patent and of the exclusive right vested in complainants by said extension and the assignment so made by the said John P. Sherwood and Calvin Adams, as hereinbefore set forth. And said defendants have infringed and are infringing the exclusive right of complainants in the improvements aforesaid.

And your complainants represent that great damage and injury have resulted to them, and great profits have accrued to the abovenamed defendants, from the infringement by said defendants of the exclusive right belonging to the complainants in the improvements described in said reissued and extended patent, and from the unauthorized and wrongful use by the said defendants of said improvements, but the amount of such damage to complainants, and profits so accruing to the defendants, the complainants cannot with certainty state, without a discovery and account from the defendants, but they believe the same to be more than $10,000; and they pray that the said defendants may be required to make a full discovery and file with their answer a just and true statement and account of all the door-locks having said improvements, or either of them, that have been made and sold by them since the 3d day of January, 1857, and of the profits that have accrued therefrom, and that an account may be taken of the complainants, damages in the premises, and that the defendants may be decreed to pay the amount of said profit and damage to complainants.

And your complainants represent that unless the said defendants shall be restrained by injunction of this court, great and irreparable damage and injury will result to complainants by reason of the defendants unlawfully and without authority, and against the will of complainats, infringing the exclusive right in said invention and improvements belonging to and vested as aforesaid in the complainants.

And your complainants further represent that they are informed and believe that the said defendants, combining and confederating with the patentee, John P. Sherwood, and divers other persons to

17 your complainants unknown, but who, when discovered, complainants pray may be made defendants hereto, pretend that the said John P. Sherwood has, by some agreement or instrument of writing, assigned or transferred to the said defendants, or to some one or more of them, the exclusive right or some right or inter-

est in the improvements in said reissued and extended patent described, and that they, the said defendants, or some one or more of them, have the exclusive right as assignees of said Sherwood to the said patented improvements described in said extended patent for and during the term of said extension or some other term. All which pretenses are untrue and fraudulent as against the complainants.

And your complainants aver that they are informed and believe, and so charge the fact to be, that the said defendants, or some of them, about two years ago, first commenced the business of manufacturing door-locks, and seeing that the complainants were largely engaged in the manufacture of door-locks under the said patent of Sherwood, and had created a market and demand therefor, and well knowing, or having some knowledge, information or notice of the assignment made by the said John P. Sherwood of his interest in the extension of said patent to the said Calvin Adams, wrongfully and fraudulently combined and confederated with the said John P. Sherwood to evade the said assignment, and to cheat and defraud the said Calvin Adams, and his assignees, out of the exclusive right and interest in said improvements for the extended term of said patent, so assigned by the said Sherwood to the said Adams, and to deprive them of the benefit of the market and demand for said improvements created by the skill, energy and expense of the complainants.

And to that end the defendants, or some one or more of them, and particularly the said Jones, after the assignment by Sherwood to Calvin Adams, made one or more visits to the said Sherwood, at his residence at Fort Edward, in the State of New York, and by the promise and the payment of money to the said Sherwood, caused and procured the said Sherwood to execute an instrument of writing, bearing date the 2d day of December, 1856, purporting to assign and transfer to the said J. Hervey Jones, his, the said Sherwood's invention, "and the exclusive right to make, use and vend the same, as the same or any part thereof shall or may be secured or covered by any patent or any extension which has been or shall be granted or issued," which said intrument of writing was recorded in the Patent Office, on the 9th of December, 1856.

And the said defendants, or some of them, and particularly the defendant J. Hervey Jones, did afterward wrongfully and fraudulently combine with said Sherwood, and did cause and procure the said Sherwood to sign another instrument of writing, bearing date the
18 18th day of December, 1856, purporting to be an assignment by the said Sherwood to the said J. Hervey Jones, of the aforesaid "letters patent, dated the 17th day of December, 1842, and the invention covered thereby, as said letters patent are extended, and the aforesaid term of seven years for which said extension was granted, and all said Sherwood's right, title and interest in and to the same, for and during the extended term and for any other or further term of extension which may be granted." Which said last-mentioned instrument was recorded in the Patent Office on 29th of December, 1856.

But your complainants aver that said instruments of writing were executed by said Sherwood after the assignments of said extension had been made by him to the said Calvin Adams, as hereinbefore set

forth; and that the said Jones and his partners had notices before and at the time said instruments of writing were procured from said Sherwood, that he had made a prior assignment to the said Calvin Adams of the extension applied for by him, and granted by the Commissioner of Patents on the 15th day of December, 1856.

They knew at the time of the execution of the instrument, dated the 15th day of December, 1856, that said Sherwood had not in his possession the patent which had been extended, and that the same was in the possession of and claimed by said Adams, or his assignees, and it had been in the possession of the said Adams or his assignees from the date of said extension. And the said instruments were procured from said Sherwood, and were executed by him in fraud, and by collusion of said defendants, or some one or more of them, with intent to cheat and defraud the said Calvin Adams or his assignees out of the rights and benefits of the prior assignment made to said Adams by said Sherwood, and they were procured and received by the said defendants, and particularly by said Jones, in collusion with his partners and the said Sherwood, with notice of the prior assignments to the said Calvin Adams and complainants, and with intent to evade and infringe the exclusive right in the invention and improvements aforesaid, vested in said Adams and his assignees by said prior assignments.

All which doings and pretenses of the defendants are contrary to equity and good conscience, and tend to the manifest wrong and injury of the complainants.

To the end, therefore, that the said defendants may answer the premises, and show if they can why your complainants should not have the discovery and relief hereby prayed, and may, to the best and utmost of their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge
19 and belief, full and true and perfect answer make to the premises, and the following interrogatories hereinafter numbered and set forth, that is to say:

1st. Whether the aforesaid original letters patent were granted to the said John P. Sherwood, as hereinbefore stated?

2d. Whether said original letters patent were assigned to Calvin Adams, as hereinbefore stated?

3d. Whether the said original letters patent were surrendered by said Adams, and new letters patent issued to him, as hereinbefore stated?

4th. Whether the said Calvin Adams re-assigned said letters patent to the said Sherwood, as hereinbefore stated?

5th. Whether said Sherwood surrendered said last-mentioned letters patent, and new letters, Reissue No. 401, were issued to him, as hereinbefore stated?

6th. Whether said letters patent were, on the 15th day of December, 1856, extended by the Commissioner of Patents for the term of seven years from and after the expiration of the first term, as hereinbefore stated?

7th. Whether the said defendants, or any, and which of them, have, since the 3d day of January, 1857, made and sold any, and what number of door-locks, having the improvements, or either, and which of them, specified in said letters patent to the said Sherwood,

(Reissue No. 401,) dated the 7th day of October, 1856, and extended December 15th, 1856?

8th. Whether the said defendants, or any, and which of them, have in their possession any, and what number of door-locks having the improvements, or either, and which of them, specified in said letters patent, Reissue No. 401?

9th. Whether the defendants, or any, and which of them, are engaged in making door-locks having the improvements, or either and which of them, specified in said letters patent, Reissue No. 401?

10th. Whether the said defendants, since the 3d day of January, 1857, have made and sold, or have in their possession for sale, any and what number of door-locks, having the cases doubled faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for right or left hand doors, substantially as described in the first claim of said extended patent?

And whether they are now engaged in making and selling door-locks, substantially upon the principal and mode of operation above described?

And your complainants pray that the said defendants may be enjoined from making, constructing, using, or vending to others to be used, the said invention and improvement described and specified in said letters patent aforesaid, dated the 7th day of October, 1856, Reissue No. 401, during the term of the extension aforesaid.

That they may be decreed to account for and pay your complainants the profits received by them from making, using, and vending to others, the aforesaid invention and improvements, patented to the said Sherwood, since the 3d day of January, 1857, or either of them, and the damages sustained by complainants by reason of the defendants' infringement of the complainants' exclusive right in said invention and improvements, or either of them.

That if the said defendants shall set up or pretend any assignment to them or to the defendant Jones, executed by the said Sherwood, and dated on the 2d of December, 1856, or on the 18th of December, 1856, or at any other time, or if the defendants, or either of them, shall claim any right or interest in the said improvements specified in said letters patent, Reissue No. 401, that the said assignment set up or pretended by the defendants, or said Jones, shall be declared fraudulent, and be held for naught as against the complainants, and that they may be ordered to be given up by the said defendants, or by the said Jones, or his assigns, and be cancelled—and that they may be required to deliver over to the complainants any door-locks in possession of them, the said defendants, having said improvements, or either of them, or surrender them up to an officer of this court, to be destroyed.

That the said defendants, and the said J. Hervey Jones, may on final hearing be enjoined from setting up any right, interest or claim in the said patented improvements, under color of said pretended assignments, and from making any assignment or transfer of said instruments, or either of them, or of any right or interest in said improvements, under or by virtue of said pretended assignment by

said Sherwood to said defendants, or said Jones, or either of them, or to any other person or persons.

That if the said defendants, or the said Jones, acquired by
21 said pretended assignments, or either of them, any title or interest to the patented improvements, or either of them, during the said extended term, the same shall be declared to be held in trust for the said Adams and his assigns, and that the said defendants, and the said Jones, and his and their assigns, may be required to assign and transfer the same to the complainants as assignees of the said Adams.

And that your complainants may have such other and further relief in the premises as equity and good conscience may require.

May it please your honors to grant unto your complainants a writ of subpœna directed to the said defendants, J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, commanding them and each of them to appear and answer unto the bill of complainant, and to perform and abide by such orders and decrees in the premises as to the court shall seem meet, and as may be required by the principles of equity and good conscience.

May it please your honors to grant unto said complainants a preliminary injunction, enjoining, and restraining the said defendants, and the said J. Hervey Jones, their servants and agents, to the same purport, tenor and effect, hereinbefore prayed in regard to the injunction on final hearing, &c.

C. SHALER & CO.,
W. BAKEWELL,
*Solicitors for Complainants.*

The defendants required to answer the interrogatories in the above bill set forth, numbered from 1 to 10, inclusive.

C. SHALER & CO.,
W. BAKEWELL,
*Solicitors for Complainants.*

Filed December 4th, 1857.

22 And afterwards, to wit, February 18th, 1858, the respondents, by their attorneys, come and file the following answer, viz:

United States circuit court, western district of Pennsylvania.

| | |
|---|---|
| J. HARVEY JONES, ALEXANDER M. WALLINGFORD, WM. R. NIMICK, AND ALEXANDER NIMICK, partners, doing busines under the name of Jones, Wallingsford & Company, *ads.* | In equity. |
| JAMES K. MOORHEAD, LARRESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, & DAVID MCKEE, partners, doing business under the name of Livingston, Copeland & Company. | |

The joint answer of J. Harvey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, defendants to a

23 bill of complaint of James K. Moorhead, Larreston R. Livingston, William B. Copeland, Calvin Adams,and David McKee, complainants.

The defendants now, and at all times hereafter, saving and reserving to themselves all and all manner of benefits and advantages of exceptions that can or may be had or taken to the many errors, insufficiencies, and imperfections in the said bill of complaint contained, for answer thereto, or so much thereof as they are advised it is material and necessary for them to make answer unto, answering say, and each for himself says, that they have been informed, and believe it is true, that one John P. Sherwood was, or claims to be, the inventor of a new and useful improvement in door-locks previous to the seventeenth day of December, A. D. 1842, which has not been known or used before his invention thereof, and made application to the Commissioner of Patents, and that on the seventeenth day of December, 1842, letters patent were granted to him, as stated in complainants' bill, and also that said letters patent were assigned to Calvin Adams, and that said Adams surrendered the same, and that new letters
24 patent were issued to him, dated 13 May, 1851, as stated in complainants' bill. But said defendants, for greater certainty, crave leave to refer to said letters patent, and the assignment, surrender, and reissue thereof, when the same shall be produced.

And these defendants, further answering, say that they know not, and have not been informed, save by complainants' bill, whether or not John P. Sherwood, in October, 1855, intending, as stated in complainants' bill of complaint, made the agreement, as stated in said bill, with said Calvin Adams.

And these defendants, further answering, say that they know not, and have not been informed, save by complainants' bill, whether or not said Sherwood made and delivered an assignment of the exclusive right of said invention and extension thereof on the same day, as stated in complainants' bill.

And these defendants, further answering, say that they know not, and have not been informed, save by complainants' bill, whether or not the said Adams was informed that the act of Congress only
25 authorized extensions of patents to be made in the name of the original inventor, and that the rules of the office required the inventor to have the patent at the time of the extension, as stated in complainants' bill.

And these defendants, further answering, say that they have been informed, and believe it is true, as stated in complainants' bill, that said Calvin Adams did, on the 16th September, 1856, assign said patent for the then unexpired term thereof to said John P. Sherwood, by instrument of writing, as therein set forth.

And these defendants, further answering, say that they have been informed, and believe it to be true, as stated in complainants' bill, that said Sherwood surrendered the said letters patent, and that the same were accepted and new letters patent issued to sd. John P. Sherwood.

And these defendants, further answering, deny it to be true that said Sherwood, on the 24th day of September, 1856, or at any other
26 time previous to his assignment to your defendant, J. Hervey

Jones, hereinafter related, executed and delivered to said Calvin Adams a new deed of assignment of the extension of said patent, as set forth in complainants' bill. And defendants aver that the instrument purporting to be such assignment to said Adams set forth in complainants' bill, signed and acknowledged by said Sherwood, was not in fact delivered or intended to be delivered to said Adams without further direction and authority, in writing, from said Sherwood, but that said instrument was then and there deposited with a certain William Bakewell, upon and with the previous express agreement that the same should not be delivered without such written direction and statement in writing by said Sherwood, that said Adams had performed certain conditions precedent, without the previous performance of which it was then and there previously expressly agreed that said Adams should not be *be* entitled to have said instrument delivered to him, that such delivery was to be made as aforesaid,
27 only upon condition, precedent, that said Adams should first pay to said Sherwood a balance unpaid of the sum of one thousand dollars, which he was to pay said Sherwood for the extended term of said patent, in case he obtained such extension, and also a further reasonable sum for the use of the invention of a latch in case certain persons to whom the question was referred should be of opinion that said Sherwood was entitled to compensation also for said invention of latch. And that it was then and there also previously expressly agreed that said deed of assignment should not be delivered at all, nor said Adams become entitled thereto, but that the title and right to said extension should be and remain in said Sherwood upon his repaying to said Adams such portions of said sum of one thousand dollars as said Adams had advanced to said Sherwood, and such further sums as said Adams had paid and expended in or about the proceedings for procuring said extension. And defendants aver that said Sherwood, in January, 1857, and at divers times
28 thereafter, did, in fact, offer, and was always ready and willing to pay to said Adams all such amounts and sums as had been by him advanced and expended as aforesaid, and these defendants, as assignees of said Sherwood, of said extension, have at all times been and yet are ready and willing, and hereby offer to pay all and any such moneys to said Adams, but that said Adams has always hitherto refused and declined to accept of such repayment, or to inform said Sherwood, or your respondents, as to the amount of money expended by or coming to him in that behalf. And these defendants, further answering on information and belief, say that the delivery of said deed to said Adams by said Bakewell was in fraud and imposition of the aforesaid agreements and condition precedent, under which the same was deposited with said Bakewell.

And the said defendants deny that previous to the date and execution of the instrument of assignment by said John P. Sherwood to said J. H. Jones, hereinafter set forth, they or any of them had any
29 notice or knowledge that said Adams, or any other person than said Sherwood, had or claimed to have any right, title, or claim to said letters patent, or the extension which had been or might be

granted thereon after the same had been reassigned by said Adams to said Sherwood, by deed dated 16th September, 1856, as set forth in complainants' bill.

And the said defendants admit that said letters patent were extended, as stated in complainants' bill, for the term of seven years from the 17th day of December, 1856, and are informed that the same were delivered to said Adams, but have no specific knowledge of the fact, and therefore, for greater certainty, require the production thereof, and beg leave to refer to the same when they shall be produced.

And these defendants, further answering upon their information and belief, say that said *that said* Adams did offer to pay said Sherwood a certain sum of money after or about the time said extension was
30 granted, but whether the amount, and at the time and place in complainants' bill stated, they are entirely ignorant, and therefore unable to state. And defendants, further answering on their information and belief, deny that the said money was deposited at the Fort Edward Bank by the direction of said Sherwood, as stated in said bill; and that said Adams, in all respects, or in any substantial respect, did comply with the agreement and condition precedent, hereinbefore stated, requisite and necessary to vest the right and property of said extension in said Adams.

And the defendants, further answering, say that the said letters patent did not become vested in said Adams and the other complainants, as stated in said bill; and these defendants, upon their information and belief, aver and say that the same is not and has not been since the extension thereof, or since the reassignment, dated 16th September, 1856, by Adams to Sherwood, the right or property of said complainants, or any of them; and said defendants also say that
31 they are not informed and have no knowledge, save by complainants' bill, whether the said Adams did, in the manner stated in said bill, assign or undertake to assign the said letters patent, or the extension thereof to said complainants.

And these defendants deny that they or any of them have, either with John P. Sherwood, or any other person or persons whatsoever, conspired or confederated, or otherwise illegally or inequitably agreed or sought to deprive or cheat or defraud the said Adams or his assigns, out of any interest or right which he or they, or any of them, has or might have to said patent or the extension thereof.

And the said defendants, further answering, admit that they have, at times since the 3d day of January, A. D. 1857, made door-locks, having substantially the improvements mentioned and specified (in said patent to Sherwood, as stated in complainants' bill,) but not continuously; and these defendants state the time during which they manufactured and made such locks at their works to have been
32 from about the first day of July, 1857, until about the first day of November, 1857, and then after a time during which they had suspended the operation of their works from about the 15th day of January, 1858, to the present time.

And said defendants, further answering, say that they claim, and will insist that they have and had, a right so to manufacture the said locks; and also that the then said defendants are the proper owners of the said patent and extension thereof, as set forth and specifically

described in complainants' bill, and as such have the sole and exclusive right and title to the same, and to manufacture, vend and use, and sell for use, the said locks constructed upon the plan and principle in said complainants' bill, and said letters patent and specification therein mentioned, designated and described.

And your defendants, further answering, say that the said sole and exclusive right to the said extended term of said patent became,
33 and was and is vested in them, as before stated, through and by virtue of the deeds of assignment thereof, from the said John P. Sherwood to the said J. Hervey Jones, one of the said defendants, now hereafter specifically described, to wit:

"Whereas I, John P. Sherwood, now of Fort Edwards, New York, did make a new and useful invention in door-locks; and whereas certain letters patent of the United States were granted and issued to me, the said Sherwood, therefor, bearing date the 19th day of December, A. D. 1842; and whereas I, Hervey Jones, of Pittsburgh, in the State of Pennsylvania, is desirous of acquiring said patent, and all patents and extensions of patents which shall be, has been, or can be issued therefor: Now, this indenture witnesseth, that for and in consideration of five dollars to me in hand paid by said Jones, and for other good and sufficient considerations, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do
34 hereby assign, sell, and set over, unto the said Jones the said invention, and all right, title and interest in and to the same for all places and countries, together with all the aforesaid patent; and I do hereby bargain, sell and assign, and convey unto said Jones, his personal representatives and assigns, said invention, and the exclusive right to make, use, and vend the same, as the same or any part thereof shall or may secured or covered by any patent or any extension of the aforesaid patent, which has been or shall hereafter be granted or issued; and especially I do hereby sell and convey to said Jones, his personal representatives and assigns, any and all such extension and extended term of said patent, and the exclusive right to said invention for and during the term of such extension, and do hereby covenant, promise, and agree to and with the said Jones that after and as soon as any such extension shall be granted and issued, I will execute and deliver to him or his personal representatives or assigns any further assignment or conveyance thereof which he or they may require.

35 In testimony whereof, I have hereunto set my hand and seal the second day of December, A. D. 1856.

J. P. SHERWOOD. [L. S.]

Signed and sealed in presence of—
JOSHUA ELDRIDGE.
H. P. HAMBLIN.

Which said instrument, or assignment, was duly recorded in the United States Patent Office on the 9th day of December, 1856.

And also as follows:

"Whereas letters patent of the United States were issued to me for an improvement in door-locks, known as the Janus-faced door-lock, dated

17th December, 1856, I did assign my rights, title and interest, in and to said patent, and any extension which should be granted thereof, to James H. Jones, of Pittsburgh, Penn'a; and whereas said patent has since been extended by the Commissioner of Patents for a term of seven years from and after the 17th day of December, 1856, and
36 did agree to execute and deliver to said Jones any other proper instrument in writing in reference to the title of said patent which he might desire:

Now, in pursuance of said agreement, and in consideration of one dollar to me in hand paid, I have sold, assigned, and set over, and hereby do sell, assign, and set over, to said Jones the aforesaid letters patent and the invention covered thereby, as said letters patent, as extended, and the aforesaid term of seven years, for which extension was granted, and all my right, title, and interest in and to the same, to be held by said Jones for his own use and behoof of his legal representatives and assigns for and during the aforesaid extended term, and for any other further term of extension which may be granted.

In testimony whereof, I have hereunto set my hand seal this 18 day of December, 1856.

JNO. P. SHERWOOD. [L. S.]

Signed, sealed, and delivered in presence of—
H. P. HAMLIN.
R. W. WILSON.

37 And which said instrument was also duly recorded in the United States Patent Office on the 29th day of Detember, A. D. 1856.

And these defendants, further answering, say that the said instruments or deeds of assignments were executed and delivered by said Sherwood to said Jones at the time of the dates thereof, respectively, and for a valuable consideration.

And these defendants, further answering, say that previous to the extension and delivery of the first of said executed instruments, and at the time thereof, they, and each of them, had no notice of any right or claim or demand of said Adams, or any other person, to the said patent, or the extension thereof, when the same should be granted, but believed then, and still believe, and so charge, that the said patent and the right to said patent, and the extension thereof, when granted, was, and would be, the right and property of said Sherwood alone, which he could then and there legally and properly assign to any person or persons, as he might be disposed; and more especially
38 do they deny that they, or any of them, had any knowledge that Sherwood had made, or agreed to make, any prior assignment or transfer to said Adams of the extended term, as applied for by him, and subsequently granted by the Commissioner of Patents, on the 18 Dec'r, 1856.

And said defendants also deny that they knew at the time of the execution of the last recited instrument, dated 18th Dec., 1856, that said Sherwood had not in his possession the patent which had been extended, and that the same was in the possession of and claimed by said Adams or his assigns, and that it has been in the possession of

said Adams or his assigns from the date of said extension, as stated in plffs' bill.

And said defendants also deny that said recited instruments of assignment to said Jones were procured from said Sherwood in fraud or by collusion of said defendants, or any of them, with any intent to cheat or defraud said Adams or his assigns out of the rights and benefits of any assignments previously made by Sherwood to said Adams.

39 And said defendants also deny that said assignments to said Jones were procured by them, or received by them, or any of them, in collusion with each other or John P. Sherwood, or any other person, with intent to evade or infringe the exclusive right to the said invention and improvement which complainants allege was vested in said Adams; but defendants allege and say that the same was procured and purchased, as hereinbefore stated, by the said Jones, from said Sherwood, in good faith and without any fraud, for a valuable consideration, and without any notice of any previous arrangement or assignment, or intended assignment, with said Adams by said Sherwood made, by which the said letters patent and extension thereof were or were to be and become vested in said Adams or his assigns.

And as to the specific interrogatoris contained in said bill of complaint, these defendants, answering, say that as to the *first*, *second*, *third*, *fourth*, fifth, and sixth, that they are informed and believe that the facts, as stated in complainants' bill in reference thereto, are

40 correct and true; but, for greater certainty, desire the complainants to make proof thereof, and beg leave to refer to the same when produced; and as to the *ninth* interrogatory, these defendants, answering, say that they, as partners, doing business in the name of Jones, Wallingford & Co., in the city of Pittsburgh, have made, and are now engaged in making, door-locks having the improvements as stated and specified in said letters patent reissued, No. 401; and as to the *seventh*, *eighth*, and *tenth* interrogatories contained in complainants' bill, these defendants say that they have already sufficiently answered the same.

And these defendants pray the same benefit and advantage of so much of this answer as goes in bar of the said bill of complaint, as if the matters therein had been pleaded, or said bill had been demurred to; and they humbly submit and insist that, under the facts and circumstances herein stated, the said complainants have no right to any further answer to said bill, or the specific interrogatories therein

41 contained, and have no right to a writ of injunction or account as prayed for in said bill.

And these defendants deny that they have made any profits out of the infringement of the rights of said complainants to said patent or the said extension, and in violation of their just rights thereto; and they deny all combination, fraud, or confederacy charged against them, or any of them, and they pray to be hence dismissed, with their

reasonable costs and charges in this behalf, most wrongfully sustained.

J. H. JONES.
A. M. WALLINGFORD.
WM. K. NIMICK.
ALEX. NIMICK.
STOWE & HAMILTON,
*Sol. for Def'ts.*

42 UNITED STATES OF AMERICA,
*Western District of Pennsylvania, ss:*

On this eighteenth day of February, 1858, personally before me, J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alex. Nimick, the defendants named in the foregoing answer subscribed by them, who, being duly sworn, depose and say, and each for himself says, that he has read the foregoing answer and knows the contents thereof, and that the same is true to his own knowledge, so far as concerns his own act and deed, and that what relates to the acts and deeds of other persons he believes it to be true.

A. M. WALLINGFORD.
J. H. JONES.
WM. K. NIMICK.
ALEX. NIMICK.

Sworn and subscribed before me, an alderman of said city.
R. MORROW.

43 And afterwards, to wit, April 3d, 1858, the complainants, by their attorneys, come and file the following replication to the respondents' answer:

United States circuit court, western district of Pennsylvania.

*No.* 1 *of May term,* 1858.

JAMES K. MOORHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, and DAVID MCKEE, partners, doing business under the name and style of Livingston, Copeland & Company,
*vs.*
J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, and ALEXANDER NIMICK, partners, doing business under the name and style of Jones, Wallingford & Company.
} In equity.

The replication of James K. Moorhead, Laureston R. Livingston, William B. Copeland, Calvin Adams, and David McKee, com-
44 plainants to the joint answer of J. Hervey Jones, Alexander M. Wallingford, Wm. K. Nimick, and Alexander Nimick, defendants.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer for replication thereunto, say that they will aver and

prove their said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer contained material or effectual in the law to be replied unto, confessed, and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

APRIL 3, 1858.

C. SHALIN & CO.
WM. BAKEWELL,
*Sol'rs for Complainants.*

45 And the said respondents, by their attorneys, on the 15th day of March, 1858, come and file the following cross-bill:

*Copy of cross-bill.*

UNITED STATES OF AMERICA,
*Western District of Pennsylvania:*

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, and ALEXANDER NIMICK, partners, doing business in the name of Jones, Wallingford & Company,
*vs.*
JAMES K. MOORHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, and DAVID MCKEE, partners, doing business und. the name of Livingston, Copeland & Company.

In the circuit court, in equity.

*To the honorable the judges of the circuit court of the United States for the western district of Pennsylvania:*

46 J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, citizens of said district, partners, as Jones, Wallingford & Co., brings this their cross-bill of complaint against James K. Moorhead, Laureston Livingston, William B. Copeland, Calvin Adams, and David McKee, partners, as Livingston, Copeland & Co.; and thereupon your orators complain and say that the said respondents, on or about the 4th day of December last, exhibited their bill of complaint in this honorable court against your orators, setting forth as therein is contained, and praying, among other things, that your orators might be enjoined from making, constructing, using, or vending to others to be used, the patented invention and improvement thereinafter described, and that your orators might be decreed to account for and pay to respondents the profits received by your orators for so making, using, and vending to others the aforesaid invention and improvement.

47 And your orators, further complaining, say that before the 17th day of December, 1842, one John P. Sherwood was the original inventor of a certain new and useful improvement in door-locks, which had not been known or used before his invention thereof; and being such inventor, and a citizen of the United States, made

application in due form of law to the Commissioner of Patents for letters patent therefor, and on the 17th day of December, 1842, letters patent of the United States were issued to the said Sherwood in due form of law for said improvement, granting to him, his heirs, administrators, or assigns, for the term of fourteen years from the said 17th day of December, 1842, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said improvement, a description whereof and specification were annexed to the said letters patent. That afterwards the said letters patent were in due form of law assigned and transferred to the aforesaid Calvin Adams.

That afterwards the said Calvin Adams surrendered the said original letters patent, and new letters patent for the same im-
48 provement were issued to him for the unexpired term of the original patent, which said new letters patent were dated the 13th day of May, 1851.

That the said Calvin Adams, on the 16th day of September, 1856, did assign said patent for the unexpired term to said John P. Sherwood by an instrument of writing, as follows:

This indenture, made this sixteenth day of September, in the year of our Lord one thousand eight hundred and fifty-six, between Calvin Adams, (now) of Oak Hill, in the State of New York, of the first part, and John P. Sherwood, of Fort Edward, Washington county, in said State, of the second part. Whereas letters patent of the United States were granted, on the 17th day of December, 1842, to said John P. Sherwood for an improvement on door-locks; and whereas the said letters patent were surrendered, and, on the 13th day of May, 1851, reissued to Calvin Adams; and this indenture witnesseth that the said party of the first part, for and in consideration of the sum
49 of one dollar to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, hath assigned, sold, and set over, and by these presents doth assign, sell, and set over, unto the said John P. Sherwood all his right, title, and interest in said invention as secured to him the said Calvin Adams by said reissued letters patent. The same to be held and enjoyed by the said John P. Sherwood for his own use and behoof, and the use and behoof of his legal representatives, to the full end of the term for which said letters patent were granted, to wit, until the 17th day of December, A. D. 1856, as fully and entirely as the same would have been held and enjoyed by the said Calvin Adams had this assignment and sale not been made. And the said Calvin Adams doth hereby request the Commissioner of Patents to reissue the said patent to the said John P. Sherwood.

In testimony whereof, the said Calvin Adams hath to these presents set his hand and seal the day and year first before.

CALVIN ADAMS. [SEAL.]

Sealed and delivered in presence of—

H. P. HAMLIN.

W. BAKEWELL.

50 STATE OF NEW YORK,
*Washington county, ss:*

Before me, the subscriber, a proper authority, personally appeared the above-named Calvin Adams, who acknowledged the foregoing instrument of writing to be his act and deed for the purpose therein set forth, desiring the same to be recorded as such.

Witness my hand and seal day of September, A. D. 1856.

NICHOLAS McINTIRE,
*Justice of the Peace.*

That for the purpose of amending the defective and insufficient description and specifiation which were annexed to said letters patent, the said John P. Sherwood returned and surrendered the said letters patent to the Commissioner of Patents for correction and reissue, which surrender being accepted, and all the requirements of the law being complied with, on the 7th day of October, 1856, new letters patent (reissued, No. 401,) were issued in due form of law to
51 the said Sherwood for the residue of the then unexpired original term for which said original patent was granted in accordance with the corrected description and specification, as will more fully appear by reference to a copy of said patent reissued, No. 401, filed herewith as an exhibit marked "A," and made part of this bill.

And your orators further represent that said John P. Sherwood, pursuant to the provisions of the act of Congress in such cases made and provided, did present to the Commissioner of Patents a petition for an extension of the aforesaid patent, granted to him on the 17th day of December, 1842, and reissued on the 7th day of October, 1856. And having so presented said petition, and pending the same, to wit, on the second day of December, 1856, sold and assigned to said J. Hervey Jones the exclusive right to the extended term that might be of said patent, by deed thus there duly executed and delivered to said Jones, of the tenor following, viz:

Whereas I, John P. Sherwood, now of Fort Edwards, New
52 York, did make a new and useful invention in door-locks; and whereas certain letters patent of the United States were granted and issued to me, the said Sherwood, therefor, bearing date the 17th day of December, 1842; and whereas J. Hervey Jones, of Pittsburgh, in the State of Pennsylvania, is desirous of acquiring said patent and all patents and extension of patents which shall be or has been or can be issued therefor. Now this indenture witnesseth, that for and in consideration of five dollars to me in hand paid, and for other good and sufficient considerations, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto said Jones the said invention and all right, title, and interest in and to the same, for all places and countries, together with the aforesaid patent; and I do hereby bargain, sell, and assign, and convey unto said Jones, his personal representatives and assigns, said invention, with the exclusive right to make, use, and vendthe same, as the same or any part thereof shall or may be secured or covered by any patent, or any extension of the aforesaid
53 patent, which has been or shall be hereafter be granted or

issued; and especially I do hereby sell and convey to said Jones, his personal representatives and assignes, any and all such extension and extended term of said patent, and the exclusive right to said invention for and during the term of such extension, and do hereby covenant, promise, and agree to and with the said Jones that, after and as soon as any such extension shall be granted and issued, I will execute and deliver to him, or his personal representatives or assigns, any further assignment or conveyance thereof which he or they may require.

In testimony whereof, I have hereunto set my hand and seal the second day of December, A. D. 1856.

JOHN P. SHERWOOD. [SEAL.]

Signed and sealed in presence of—
JOSHUA ELDRIDGE.
H. P. HAMBLIN.

Which said instrument or assignment was duly recorded in the United States Patent Office on the 9th day of December, 1856.

54 That afterwards such proceedings were had upon said petition by said Commissioner pursuant to the provisions of the act of Congress in such case made and provided; that said Commissioner did certify, in due form of law, that said patent ought to be extended, and did extend and renew said patent by making a certificate thereon of such extension for the term of seven years from and after the expiration of the past term, to wit, from the 17th day of December, 1856; which certificate being duly entered of record in the Patent Office, the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years, which certificate is as follows, to wit:

Whereas, upon the petition of John P. Sherwood, of Fort Edward, N. York, for an extension of the within patent, granted to him on the 17th day of December, 1842, and reissued on the 7th day of October, 1856, the undersigned, in accordance with the 18th section of the act of Congress, approved the 4th day of July, 1836, entitled

55 "An act to promote the progress of the useful arts, and to repeal all acts heretofore made for that purpose," and the act approved the 27th day of May, 1848, entitled "An act to provide additional examiners in the Patent Office, and for other purposes," did, on the 13th day of December, 1856, certify that said patent ought to be extended:

Now, therefore, I, Charles Mason, Commissioner of Patents, by virtue of the power vested in me by said act of Congress, do renew and extend the said patent, and do certify that the same is hereby extended for the term of seven years from and after the expiration of the first term, viz: from the 17th day of December, 1856; which certificate being duly entered of record in the Patent Office, the said patent has now the same effect in law as though it had been originally granted for the term of twenty-one years.

In testimony whereof, I have caused the seal of the Patent [SEAL.] Office to be here affixed this 18th day of December, 1856, and of the independence of the United States the eighty-first.

C. MASON, *Commissioner*.

56 That after the granting of said renewal and extension to said Sherwood, as aforesaid, to wit, on the 18th day of December, 1856, your orator, Jones, considering that it might be legally requisite for the perfecting and vesting in him of the title to said patent, and renewal and extension thereof, that an assignment and transfer thereof to him should be made subsequently to the actual granting of said extension to said Sherwood, and, in virtue of a provision to that end in the aforesaid agreement with said Sherwood, obtained from s'd Sherwood another deed of assignment of said patent and renewal thereof, of the tenor following, to wit:

Whereas letters patent of the United States were issued to me for an improvement in door-locks, known as the Janus-faced lock, dated 17th day of December, 1856, I did assign my right, title, and interest in and to said patent, and any extension which should be granted thereof, to James H. Jones, of Pittsburgh, Penn'a; and whereas

57 said patent has since been extended by the Commisioner of Patents for a term of seven years from and after the 17th day of December, 1856, and did agree to execute and deliver to said Jones any other proper instrument in writing in reference to the title of said patent which he might desire:

Now, in pursuance of said agreement and in consideration of one dollar to me in hand paid, I have sold, assigned, and set over, and hereby do sell, assign, and set over, to said Jones the aforesaid letters patent, and the invention covered thereby, as said letters patent is extended, and the aforesaid term of seven years, for which extension was granted; and all my right, title, and interest in and to the same, to be held by said Jones, for his own use and behoof, and for the use and behoof of his legal representatives and assigns for and during the aforesaid extended term, and for any other further term of extension which may be granted.

In testimony whereof, I have hereunto set my hand and seal this 18th day of December, 1856.

JOHN P. SHERWOOD. [L. S.]

Signed, sealed, and delivered in presence of—

H. P. HAMBLIN.
R. W. WILSON.

58 And that said instrument was also duly recorded in the United States Patent Office on the 29th day of December, 1856, and both of which said deeds of assignment were actually and absolutely executed and delivered by said Sherwood to said Jones at the time of the dates thereof, respectively, and for a valuable consideration. And your orators respectfully, each for himself, saith that at the time of said purchase by said Jones, and conveyance to him by said Sherwood, as aforesaid, they had no knowledge or notice of any assignment of said extension of said patent to any other person, or that any other person, or that any person other than said Sherwood, had lawful claim or title thereto or therein.

And your orators aver that by virtue of the aforesaid assignments to your orator, Jones, and the extension of the aforesaid patent by the

Commissioner of Patents, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvements specified and described in
59 said original patent, and the reissued and extended patent (reissue No. 401) became and was vested in said Jones, his legal representatives and assigns, for and during the aforesaid extended term of seven years, from and after the expiration of the original patent aforesaid, and for any other further term which may be granted. And that your orator, Jones, on the day of January, 1857, assigned the same to the said firm and partnership of Jones, Wallingford & Co.

And your orators also aver that on the day of 1857, and from thence hitherto, the compose the firm of Jones, Wallingford & Co., and were then and now are doing business under that name at Pittsburgh, in the State of Penn'a, as partners; and that the last-mentioned assignment, the full and excluseve right and liberty of making and constructing, using, and vending to others to be used, the said invention and improvement described in the said original patent, dated the 17th day of December, 1842, and in the said reissue and extended patent, (reissue No. 401,) become and was on the said day of
60 , 1857, and still is, vested in them for the unexpired term of seven years, from and after the expiration of the first term, to wit, from the 17th day of December, 1856, and to the same effect as if the patent had been originally granted for the term of twenty-one years.

And your orators represent that the said improvements in said original re-issue and extended patent described were of public utility and valuable to your orators; and that they have constructed door-locks having the said patented improvements, and have introduced them into public use in various parts of the United States, with profit to themselves and to the benefit and advantage of the public, and that but for the infringment hereinafter complained of, they would have been enabled greatly to extend the manufacture, sale, and use of said improvement, and to have divided large profits therefrom.

And your orators, further complaining, say that James K. Moorhead, Laureston R. Livingston, Wm. B. Copeland, Calvin Adams, and David McKee, citizens and residents of the western destrict
61 of Pennsylvania, doing business at Pittsburgh, as partners, under the name and style of Livingston, Copeland & Co., all of whom are made respondents hereto, since the date of the extension of said letters patent aforementioned, and since the assignment thereof to your orators, as aforesaid, at Pittsburgh, within the western district of Penn'a, without the authority of your orators, and against their will, have made and sold to others to be used, and are now making and selling to others to be used, the said invention and improvements in said extended letters patent described, in violation of the exclusive right vested in your orators by the extension and assignment aforesaid.

And that the said respondents, without the authority and against the will of your orators, are in possession and have for sale and have made and sold, and are engaged at their manufacturies in Pittsburgh in making and selling, door-locks in great numbers, amounting an-

nually to about , having substantially the improvements invented by and patented to the said John P. Sherwood, and de-
62 scribed and specified in said original letters patent, dated the 17th day of December, 1842, and said reissued patent, reissue No. 401, as aforesaid, by the Commissioner of Patents, to wit, the improvement *the improvement* specified in first claim to said extended patent, as follows: Making the case of the door-locks and latches double faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described in said patent.

And also door-locks having substantially the improvement specified in the same claim of said extended patent, to wit: "The peculiar construction and double action (upon an inclined or horizontal track or way) of the locking car 'B,' as in the schedule of said patent described, and the combination of the locking car B and safely cars 'G G' with one another, and with the connecting or vibrating bar and bolt A, as in said patend described, so as to fasten the bolt C securely and prevent its being picked."

And also the third claim of said patent, as follows: "So
63 constructing the bolt, as in said patent described, that by simply turning it over in the lock case it is adapted to a right or left hand door."

And your orators aver that since the said day of , 1857, the said respondents made and sold, and have in their possession for sale, and are now making and selling, door-locks to a large amount, to wit: annually, which door-locks are in their corresponding parts substantially the same in principle and mode of operation and effect as the aforesaid invention and improvements described and specified in said original and extended reissue, No. 401, in the first claim thereof, and all an infringment of the said extended patent, and of the exclusive right vested in your orators by the extension and the assignment so made by the said Sherwood and J. Hervey Jones, as hereinbefore set forth, and that said respondents have infringed and are infringing the exclusive right of your orators in the improvements aforesaid.

And your orators represent that great damage and injury has
64 resulted to them, and that great profits have accrued to the above-named respondents from the infringment by said respondents of the extensive right belonging to your orators in the improvements described in said reissued and extended patent, and from the unauthorized and wrongful use by the said respondents of said improvements; but that the amount of such damage to your orators, and profits so accruing to the respondents, your orators cannot with certainty state, without a discovery and account from the defendants, but they believe the same to be more than , and they pray that the said respondents may be required to make a full discovery, and file with their answer a just and true statement and account of all the door-locks having said improvements, or either of them, that have been made and sold by them since the said and of the profits that have accrued therefrom, and that an account may be taken of your orators' damages in the premises, and that the

65 respondents may be decreed to pay the amount of said profit and damage to your orators.

And your orators represent that unless the said respondents shall be restrained by injunction of this court, great irreparable damage and injury will result to your orators by reason of *of* the respondents, unlawfully and without authority, and against the will of your orators, infringing the exclusive right in said invention and improvements belonging to and vested as aforesaid in your orators.

And your orators, further complaining, say that said respondents, in their aforesaid bill against your orators, claim to have in their possession a certain instrument of writing therein set forth, dated the 24th day of September, 1856, executed by said John P. Sherwood, assigning or agreeing to assign to said Calvin Adams the aforesaid extension of said patent, and under color thereof and of a deed of assignment from said Adams to them, said respondents also in their said bill set forth, pretend that said extension of said patent is vested in

66 them, said respondents, exclusively. But your orators aver that they are well informed, and believe to be true, and so charge, that respondents are not, nor were, nor was, or is, either of them, lawfully or rightfully in possession of said instrument purporting to have been executed by said Sherwood; and that the same, in fact, was not delivered to said Adams or to said respondents, or any of them, without further direction and authority in writing from said Sherwood, but that said instrument was, at the time of its being signed and acknowledged, deposited with a certain William Bakewell, upon and with the previous express agreement that the same should not be delivered without such written direction and statement in writing by said Sherwood, that said Adams had performed certain conditions precedent, without the previous performance of which it was then there previously expressly agreed that said Adams should not be entitled to have said instrument delivered to him. That said delivery was to be made as aforesaid, only on condition precedent that said Adams

67 should first pay to said Sherwood a balance unpaid of the sum of one thousand dollars, which he was to pay said Sherwood for the extended term of said patent in case he obtained such extension; and also a further reasonable sum for the use of the invention of a latch, in case certain persons to whom the question was referred should be of opinion that said Sherwood was entitled to compensation also for such invention of a latch.

And that it was then and there also previously expressly agreed that said of assignment should not be delivered at all, nor said Adams become entitled thereto, but that the title and right to said extension should be and remain in said Sherwood upon his repaying to said Adams such portion of said sum of one thousand dollars as said Adams had advanced to said Sherwood, and such further sums as said Adams had paid or expended in or about the proceedings for procuring said extension.

And your orators aver that said Sherwood, in January, 1847, and at divers times thereafter, did, in fact, offer and were always ready and willing to pay said Adams all such amounts and sums as had been by him advanced and expended as aforesaid, and that

68 your orators, as assigns of said Sherwood of said extension, have, at all times, been and yet are ready and willing and hereby offer to repay all and any such moneys to said Adams, but that said Adams has always hitherto refused and declined to accept of such repayment or to inform said Sherwood or your orators as to the amount of money expended by or coming to him, said Adams, in that behalf.

And your orators charged that the delivery of deed or instrument by said Bakewell to said Adams or to respondents was in fraud and infraction of the aforesaid agreements and conditions precedent under which the same was deposited with said Bakewell.

And your orators maintain and say that the pretence of right or title in said respondents, or any of them, in or to said extension under said instrument or color thereof, or by the surreptitious possession or procurement thereof, as aforesaid, is fraudulent and void, as against your orators.

69 All which doings and pretences of said respondents are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orators

To the end, therefore, that the said respondents may answer the premises and show, if they can, why your orators should not have the relief and discovery hereby prayed, and may to the best and utmost of their several and respective knowledge, remembrance, information and belief upon their several and respective corporal oaths, full, true, and direct and perfect answer make to the premises, and to the following interrogatories numbered and set forth, as follows:

70 1st. Whether respondents, or any, and which of them, since the day of January, 1857, made and sold any and what number of door-locks having the improvements, or either and which of them, specified in said letters patent to the said Sherwood, reissue No. 401, dated 17th October, 1856, and extended term, December 15th, 1856?

2d. Whether the said respondents, or any, and which of them have in their possession any and what number of door-locks having the improvements, or either, and which of them, specified in said letters patent, reissue No. 401?

3d. Whether respondents, or any, and which of them, are engaged in making door-looks having the improvements, or either, and which of them, specified in said letters patent, re-issue No. 401?

4th. Whether the said respondents, since the day of January, 1857, have made and sold, or have in their possession for sale, any and what number of door-locks having the cases double faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described in the first claim of said extended patent, and whether they are now engaged in making and selling door-locks substantially upon the principle and mode of operation above described?

5th. Where did Calvin Adams reside at the date of the instrument of writing aforementiond, dated 24th September, 1856.

6th. By whom was said instrument drawn?

7th. Who were present when it was signed by Sherwood, and how

did they happen to be present, especialy the subscribing witness, Bakewell?

8th. What relation existed at the time, or before, or since, between said Bakewell and said respondents, or either of them, in relation to the said patent or extension, and what character was said Bakewell acting, and what interest, contingent or otherwise, had he in relation to said extension or assignment thereof?

9th. Into whose hands or possession was said instrument
71 given, deposited, or intrusted at the time it was signed by Sherwood, and if not to Calvin Adams, for what reason?

10th. Was there any, and if any, what, condition, direction, agreement or understanding, connected with or accompanying such deposit, trust, or giving possession of said instrument? And if yea, state particularly all that took place.

11th. Was there at that time an actual, absolute, final, irrevocable, and unconditional delivery of said instrument by said Sherwood to said Adams himself; and if yea, why and for what reason, and for what object, purpose, or reason was the recording of it delayed until the 16th day of December following, and why was it then put upon record?

12th. Were there any, and if any, what, blanks left in said instrument at the time it was signed by Sherwood; and if so, what was the reason of their being left, and when, where, and by whom were they filled up?

13th. When was the assignment by Adams to Sherwood, dated 16th September, 1856, actually signed, acknowleded and delivered by said Adams to said Sherwood, and why was the exact date of said acknowledgment left blank in the certificate thereof?

14th. If said instrument, dated September 24th, 1856, at the time it was signed and acknowledged by Sherwood, was deposited with, or intrusted to, or given into the custody of Wm. Bakewell, or any person other than said Adams, how long did it continue in the possession or custody of such person, and when, where, and for what purpose, or with what design or intent was it first given or surrendered into the possession of respondents, or either of them, and to which of them was it first given or surrendered?

15th. Did any of the respondents at any time subsequent to the 24th September, 1856, or subsequently to the time when said instrument bearing that date was actually signed, represent, or consent, or connive that it should be represented, or made to appear that said Sherwood was yet the owner of said patent, or would be entitled to the extension thereof when granted?

They further ask that the instrument of assignment be declared
fraudulent and void, and given up to be canceled. That any
72 door-locks in defendants' possession, having the patented improvements, may be delivered up to be destroyed, and that the respondents be enjoined from claiming under said patented assignment, or assigning the same; and that in case said respondents or said Adams have acquired any interest under said assignment of 24th September, 1856, the same may be declared to be held in trust for said Jones

and his assigns, and respondent be required to assign the same to complainants.

Prayer for subpœna, and for preliminary injunction.

Signed by J. H. JONES.
A. M. WALLINGFORD.
A. NIMICK.
W. K. NIMICK.

GEORGE P. HAMILTON,
*Solicitor for Plaintiffs.*

Filed March 8, 1858.

U. S. circuit court, western district of Pennsylvania.—In equity.

JAMES K. MOORHEAD *et al* *ads.*
J. HERVEY JONES *et al*
No. 3, May t., 1858.

*Answer to cross-bill.*

The joint and several answer of James K. Moorhead, Laureston R. Livingston, William B. Copeland, Calvin Adams, and David M'Kee, respondents to the bill of complaint of J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, complainants.

The said respondents, now and at all times hereafter saving and reserving unto themselves, and each of them, all and all manner of benefit of advantage of exception that can or may be had or taken to the many errors, uncertainties, and other imperfections in the said bill of complaint contained, for answer thereto, or to so much and such part or parts thereof as these respondents are advised it is material or necessary for them or any of them to make answer unto, they, these respondents, answering, say, and each of them saith, that they admit that one John P. Sherwood was, or claimed to be, the inventor
73 of a new and useful improvement in door locks, previous to the 17th day of December, A. D. 1842, which had not been known or used prior to his invention thereof, and mada application to the Commissioner of Patents, and that on the 17th December, 1842, letters patent were granted to him, as stated in complainants' said bill, and also that said letters patent were assigned to said Calvin Adams, and that said Adams surrendered the same for reissue, and that new letters patent were issued to him, dated 13th May, 1851, as stated in said complainants' bill.

And said respondents, further answering, admit that said Calvin Adams did, by his instrument of writing, under his hand and seal, bearing date the 16th September, 1856, assign said letters patent for the unexpired term to said John P. Sherwood. But these respondents aver that the said assignment, made by said Adams to said Sherwood, and bearing date the 16th September, 1856, was made and executed by said Adams, not at the instance and request of said Sherwood, but solely for the purpose of having the patent reissued to said Sherwood, in order to comply with the requirements of law and the rules of the

Patent Office, as stated in the original bill of these respondents; that said Sherwood, having previously, to wit, in the month of October, 1855, agreed, in writing, under his hand and seal, for a valuable consideration therein stated, to aid said Calvin Adams in procuring an extension of his said patent, and having, on the same day, made and delivered to said Adams, for a valuable consideration, an assignment of his right in said invention for the extended term thereof; and the said assignment from Adams to Sherwood, dated 16th September, 1856, having been executed merely for the purpose of facilitating the procuring of the extension of said letters patent, said Sherwood did, by deed of assignment, dated the 24th September, 1856, execute a new assignment of the said letters patent for the extended term thereof, to said Calvin Adams, for a valuable consideration therein expressed, which assignment was duly recorded in the United States Patent Office, within three months after the execution and delivery thereof, to wit, on the 16th December, 1856, all which, together with the title of these respondents to said letters patent for the extended term thereof, is fully and at length set forth in said respondents' original bill of complaint, and to which they crave leave to refer.

And these respondents, further answering, say that they admit it to be true that said letters patent were surrendered by said John P. Sherwood, and that new letters patent wers issued to him on the 7th day of October, 1856.

And the said respondents, further answering, say that they are informed, and believe it to be true, that said John P. Sher-
74 wood did execute and deliver to said J. Hervey Jones the deed purporting to be an assignment of the extended term of said letters patent, as set forth in said complainants' bill, but whether said assignment was executed by said Sherwood and delivered to said Jones on the day and date therein stated, and for a valuable consideration, these respondents are not informed save by the said complainants' bill; and these respondents, for greater certainty therein, crave leave to refer to said instrument of writing when the same shall be produced.

And these respondents, further answering, say that they admit that said letters patent were extended for the term of seven years from the 17th December, 1856, whereby the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years, as set forth in said complainants' bill; but these respondents aver that all said proceedings for the reissue of said patent to said Sherwood, and for the extension thereof for the term of seven years, were carried on by or at the instance and request and for the benefit of said Calvin Adams, and at the sole cost and expense of these respondents.

And the said respondents, further answering, say that they are informed, and believe it to be true, that said J. Hervey Jones did, on the 18th day of December, A. D. 1856, obtain from said Sherwood another instrument of writing, purporting to be a deed of assignment of said patent and renewal thereof, as set forth in said complainants' bill, but whether said alleged deed of assignment was executed by said Sherwood and delivered to said Jones on the day and date therein stated, and for a valuable consideration, these respondents are not informed

save by the said complainants' bill; and these respondents, for greater certainty therein, crave leave to refer to said instrument of writing when the same shall be produced.

And these respondents, further answering, deny that the said complainants, at the time of the alleged purchase by said Jones, and the alleged conveyance to him by said Sherwood, had no knowledge or notice of any assignment of said extension of said patent to any other person; but these respondents say they are informed, and believe it to be true, that said complainants, and especially the said complainant Jones, had notice of the interest of Calvin Adams therein, and of his purchase from said Sherwood of the said patent for the extended term thereof, and further aver, that the fact of said Adams having such interest was set forth in the statement filed in the U. S. Patent Office by said Sherwood, in the month of October, 1856, in the matter of his application for extension of said patent, and that said statement having been filed in said Patent Office prior to the 2d Decem-
75 ber, 1856, the date of the alleged purchase by said Jones from said Sherwood, and the said Jones having purchased, during the pendency of said application of said Sherwood for extension, was bound to take notice thereof.

And these respondents, further answering, deny it to be true that by virtue of the alleged assignments to said Jones, and the extension of the aforesaid patent by the Commissioner of Patents, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, said invention and improvements specified and described in said original patent, and the reissue and extended patent, or any right, title, and interest whatsoever therein, became and was vested in said Jones, or his legal representatives, for and during the extended term of said patent, or for any term or time, but aver that the full and exclusive right, title, and interest in said letters patent for the extended term thereof, became and was vested in said Calvin Adams, by virtue of the prior assignments, for valuable consideration from said Sherwood to him, hereinbefore recited and referred to, and that said Adams assigned the same to the firm and partnership of Livingston, Copeland & Co , these respondents, on the third day of January, A. D. 1857.

And these respondents, further answering, admit that they have, at times since the day of January, 1857, made door locks having substantially the improvements specified in the said letters patent to said Sherwood, reissue No. 401, dated 17th October, 1856, and extended on the 15th December, 1856, to wit: the improvements specified in the first claim set forth in said specification, that from the 5th day of October, 1857, to the 22d March, 1858, their manufactory was stopped, and that during that time they discontinued manufacturing said locks.

And these respondents, further answering, say that they have, since the day of January, 1857, excepting during that portion of time when the operation of their works was suspended as aforesaid, made door locks having their cases double-faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, sub-

stantially as described in the first claim of said extended patent, and that during all the time since the said day of January, 1857, to the present time, they have had door locks so constructed and manufactured by them in their possession, and have, from time to time, sold the same.

And said respondents, further answering, say that they claim, and will insist that they now have, and at all times since the day of January, 1857, have had, the full, sole, and exclusive right and title in and to said letters patent, and to the invention secured
76 thereby, for the full term for which said letters patent were extended, as set forth specifically in said complainants' bill, and as such have the full and exclusive right and liberty of making, using, and vending to others to be used, the said door locks, constructed substantially as described and set forth in the specification accompanying said letters patent, by virtue of the several agreements and deeds of assignment from said John P. Sherwood to said Calvin Adams, especially the agreement and assignment hereinbefore referred to from John P. Sherwood to Calvin Adams, dated in October, 1855, and the assignment to said Adams dated 24th September, 1856, both of which deeds of assignment were actually and absolutely executed and delivered by said Sherwood to said Adams at the time of the dates thereof respectively, and for a valuable consideration, and the latter of which, to wit, the deed of assignment dated 24th September, 1856, was duly recorded in the United States Patent Office, within three months after the execution and delivery thereof, as hereinbefore set forth.

And the said respondent Calvin Adams, further severally answering, saith he denies the complainants' allegations, and the other respondents, J. K. Moorhead, L. R. Livingston, W. B. Copeland, and David M'Kee, are informed and believe such denial to be true, to wit: they deny that these respondents, or either or any of them, were not lawfully and rightfully in possession of said instument executed by said Sherwood, and dated the 24th September, 1856, and that the same was not delivered or intended to be delivered without further direction or authority in writing from said Sherwood.

And further, said Calvin Adams denies, and the other respondents believe such denial to be true, that said instrument was, at the time of its being signed and acknowledged, deposited with William Bakewell, with the express previous agreement that the same should not be so delivered without such written direction or statement in writing from said Sherwood, or that there were any conditions precedent to be done or performed by said Adams, without the previous performance of which said Adams was not to be entitled to have the said instrument delivered to him, or that said delivery was to be made only on condition precedent that said Adams should first pay to said Sherwood a balance unpaid of the sum of $1,000, as alleged in said complainants' bill, or should also pay a further reasonable sum for the use of the invention of a latch.

And said respondent Calvin Adams, further severally answering, saith he denies, and the other respondents believe such denial to be true, that it was then, or at any time, expressly agreed that said deed of assignment should not be delivered at all, nor said Adams become

entitled thereto, but that the title and right to said extension
77 should be and remain in said Sherwood upon his repaying to said Adams such portion of said sum of $1,000 as said Adams had advanced to said Sherwood, and such further sum as said Adams had paid or expended in or about the proceedings for procuring said extension.

And said respondent Calvin Adams, further severally answering, saith, and the other respondents believe said averment to be true, that said deed of assignment from John P. Sherwood to said Calvin Adams was duly signed, sealed, executed, and acknowledged by said Sherwood, on the said 24th day of September, 1856, and was then and there absolutely and unconditionally delivered by said Sherwood to said Calvin Adams, and received, he being then and there present at the execution thereof, without any condition precedent, or other condition, limitation, or qualification whatever.

And said respondent Calvin Adams, further severally answering, saith, and the other respondents believe said averment to be true, that he, the said Calvin Adams, hath fully paid to said John P. Sherwood the consideration of such assignment and sale of said John P. Sherwood to him, expressed in said deed of 24th September, 1856, in fulfillment of the terms and conditions of the original agreement of October, 1855, between said Sherwood and said Adams, and as stated and set forth in the original bill filed by said defendants against said complainants.

And as to the specific interrogatories contained in said bill of complaint, these respondents, answering, say, as to the first interrogatory, that they, as partners, doing business in the name of Livingston, Copeland & Co. in the city of Pittsburgh, have made and are now engaged in making door locks having the improvements substantially as specified and stated in said letters patent, (reissue No. 401.)

As to the second, third, and fourth interrogatories, these respondents say that they have sufficiently answered the same.

As to the fifth interrogatory, these respondents say that the place of residence of Calvin Adams, on the 24th day of September, 1856, was Oak Hill, in the county of Greene and State of New York, but that on that day he was actually in Fort Edward, in the county of Washington, and State of New York.

As to the sixth interrogatory, these respondents, answering, say that they are informed and verily believe that the said instrument of writing, dated 24th September, 1856, was drawn by William Bakewell, of Pittsburgh.

As to the seventh interrogatory, said Calvin Adams, severally answering, saith, and the other respondents say, they are informed, and believe it to be true that there were present at the signing of said deed of 24th of September, 1856, by said Sherwood, the follow-
78 ing persons: John P. Sherwood, Calvin Adams, and William Bakewell, and H. P. Hamblin, and that they happened to be present because they had met for that purpose, and that the subscribing witness, Bakewell, was present at the request of said Calvin Adams.

As to the eighth interrogatory, these respondents, answering, say

that the relation which at that time, and for some time previous, and since then to the present time, existed between said Bakewell and these respondents, was that of attorney and clients, and in relation to said patent and extension, that he was acting in that character at the time referred to in said interrogatory, and that he had not then, nor has he had at any time either before or since that time, any interest, contingent or otherwise, in relation to said extension, or to the assignment.

In answer to the ninth interrogatory, the respondent Adams, further severally answering, saith, and the other respondents say, they are informed, and believe it to be true, that said instrument was delivered at once to said Adams, and was not deposited or intrusted at the time it was signed by said Sherwood, with any other person or persons.

In answer to the tenth interrogatory, the respondent Adams, severally answering, saith, and the other respondents say they are informed, and believe it to be true, that there was *not* any condition, direction or agreement, or understanding connected with or accompanying any deposit, or giving possession of said instrument.

In answer to the eleventh interrogatory, this respondent Adams, severally answering, saith, and the other respondents say they are informed, and believe it to be true, that there was at the time referred to, to wit, on the 24th September, 1856, an absolute, final, irrevocable, and unconditional delivery of said instrument by said Sherwood to said Adams, himself, and further, that the recording thereof was deferred until the 16th day of December following, because it was unnecessary to record it sooner, and it was then recorded because the extension had been granted, and because the act of Congress in such case made and provided requires such assignment to be recorded in the Patent Office within three months from the execution thereof.

In answer to the twelfth interrogatory, the said respondent Adams, severally answering, saith, and the other respondents say that they do not know and that they are not informed, whether any blanks were left in said instrument at the time it was signed by Sherwood, and if there were, do not know when or by whom they were filled up, but believe, and so aver, that the whole instrument is in the handwriting of said Bakewell.

In answer to the thirteenth interrogatory, the respondent Adams, severally answering, saith, and the other respondents
79 say they are informed, and believe it to be true, that the assignment by Adams to Sherwood, dated 16th September, 1856, was actually signed and acknowledged by said Adams on the 24th September, 1856, having been executed at the same time, or only a few minutes previous to the execution of the assignment from Sherwood to Adams, of the patent for the extended term, and further, that they are not informed and do not know why the date in the acknowledgment was left blank.

In answer to the fourteenth interrogatory, these respondents, further answering, say that they have already fully answered the same, the said instrument having been delivered to said Adams by said Sherwood at the execution thereof.

In answer to the fifteenth interrogatory, these respondents, further answering, say that the said Calvin Adams assigned and transferred

said patent to Sherwood, for the purpose of having the said patent reissued to him, believing it to be necessary so to do in order that the extension might be granted by the Commissioner of Patents, and for no other purpose or intention, and it was so expressly understood by said Sherwood.

And these respondents pray that the same benefit and advantage of so much of this answer as goes in bar of the said bill of complaint, as if the matters therein had been pleaded, or said bill had been demurred to; and they humbly submit and insist that, under the facts and circumstances herein stated, the said complainants have no right to any further answer to said cross-bill, or to the specific interrogatories therein contained, and have no right to a writ of injunction or account, as prayed for in said bill.

And these respondents deny that they have in any way infringed any right to said complainants, or that said complainants have any right, title, or interest in said patent, or said extension thereof; and they deny all combination, fraud, and confederacy charged against them, or any of them, and they pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

J. K. MOORHEAD.
L. R LIVINGSTON.
CALVIN ADAMS.
W B. COPELAND.
DAVID F. M'KEE.

C. SHALER & Co.,
W. BAKEWELL,
*Solicitors for Respondents.*

Sworn before— H. SPROUL, *Commissioner.*
Filed May 3d, 1858.

80 UNITED STATES OF AMERICA,
*Western District of Pennsylvania.*

On this 3d day of May, A. D. 1858, personally appeared before me, an alderman in and for the city of Pittsburgh, J. K. Moorhead, L R. Livingston, Calvin Adams, W. B. Copeland, and David M'Kee, the respondents named in the foregoing answer subscribed by them, who being duly swoan, depose and say, and each for himself saith, that he has read the foregoing answer and knows the contents thereof, and that the same is true to his own knowledge, so far as concerns his own act and deed, and that what relates to the acts and deeds of others he believes to be true.

J. K. MOORHEAD.
L R. LIVINGSTON.
W. B. COPELAND.
CALVIN ADAMS.
DAVID F. M'KEE.

Sworn and subscribed the 3d and 4th days of May, before—
H. SPROUL, *U. S. Commissioner.*

Filed May 3d, 1858.

J. HERVEY JONES *et al.*
*ads.*
J. K. MOORHEAD *et al.* } No. 3, May term, 1858.

21st July, 1858, replication filed.

*Orders of court, &c.*

JAMES K. MOORHEAD *et al.*
*vs.*
JONES, WALLINGFORD & Co. } No. 1, May term, 1858.

And now, to wit, July 12, 1858, on motion of C. Shaler & Co., attorneys for plaintiffs, it is ordered that the time for taking testimony in the above case be extended for thirty days beyond the time limited by the rules of court.

By the court: H. SPROUL, *Clerk.*

81 LIVINGSTON, COPELAND & Co.
*vs.*
JONES, WALLINGFORD & Co. } No. 1, May term, 1858. Same order as in No. 3.

JONES, WALLINGFORD & Co.
*vs.*
LIVINGSTON, COPELAND & Co. } No. 3, May term, 1858. August 12th, 1858.

On motion of solicitor for complainants, the following order is made by the court:

And now, to wit, August 12, 1858, the time fixed for closing the testimony in this case is extended until the first Monday of October next.

LIVINGSTON, COPELAND & Co.
*vs.*
JONES, WALLINGFORD & Co. } No. 1, May term, 1858. Bill in equity.

JONES, WALLINGFORD & Co.
*vs.*
LIVINGSTON, COPELAND & Co. } No. 3, May term, 1858. Cross-bill.

And now, to wit, Sept. 11, 1858, on motion of Wm. Bakewell, solicitor for complainants in above case, No 1, May term, 1858, and defendants in cross-bill, No. 3, May term, 1858, the court order—

That the testimony in the above cases may be taken by deposition.

And the court further order, that the testimony taken in either of the above cases may be read in the other case.

And the court further order, that George Downing, of the city of Albany, in the State of New York, be appointed commissioner or examiner to take testimony in the above cases in the State of New York, on part of complainants.

And, further, the court extend the time for taking testimony to the third Monday of October next.

The above order agreed to by us.

GEORGE P. HAMILTON,
*for Jones, Wallingford & Co.*
W. BAKEWELL,
*Solicitor for Livingston, Copeland & Co.*

82 *Depositions on part of complainants.*

J. K. MOORHEAD *et al.* }
*vs.* } No. 1, M term, 1858.
J. HERVEY JONES *et al.* }

J. HERVEY JONES *et al.* }
*vs.* } No. 3, May term, 1858.
J. K. MOORHEAD *et al.* }

Depositions of witnesses on the part of J. K. Moorhead *et al.*, complainants in No. 1, May term, 1858, taken in the above cases, under the annexed agreement and order of court, and in pursuance of notice to the defendants, before George Downing, esq., in the city of Albany, New York, on Friday, the 24th September, 1858.

Present: W. Bakewell, solicitor for complainants; E. H. Stowe, solicitor for respondents.

Tobias S. Van Hoevenburgh, being duly sworn, testified as follows: My name is Tobias S. Van Hoevenburgh, and reside in the city of Albany and State of New York. My occupation is a lawyer, practicing in this State. [Instrument of writing marked "A, George Downing," shown to witness, and hereto annexed.] I have seen this paper before; was present at the execution of said instrument, and became a subscribing witness thereto; said instument was executed by J. P. Sherwood I saw it sealed, signed, executed, and delivered by said J. P. Sherwood to Calvin Adams. It was executed in the month of October, 1855. The paper was executed at my office, in the Museum buildings, in the city of Albany and State of New York, in the presence of M. H. Garner and myself, who both subscribed it as attesting witnesses. I am acquainted with the handwriting of M. H. Garner; the name subscribed as witness to said instrument is in his handwriting. Calvin Adams was also present at the execution of said paper. There was another paper executed at the same time of the paper hereinbefore referred to, by Calvin Adams and J. P. Sherwood. [Instrument in writing marked "B, Geo. Downing," shown to witness.] This is the paper executed by Calvin Adams and J. P. Sherwood, at the time of the execution of the other paper referred to in this deposition. This paper was executed, signed, sealed, and delivered by J. P. Sherwood and Calvin Adams. M. H. Garner and myself are subscribing witnesses thereto. My name, as subscribed thereto as subscribing witness,
83 is in my handwriting; also the name of M. H. Garner was subscribed thereto, as subscribing witness, in my presence. There was money paid by Calvin Adams to J. P. Sherwood, at the time of the execution of this paper and the assignment before referred to, marked "A" in this deposition; there was five hundred dollars paid by Calvin Adams to J. P. Sherwood, and the money was counted over by me. The words, "at the Fort Edward Bank," in this paper marked "B," were interlined in my handwriting, before the execution of the instrument, at the request of J. P. Sherwood. The matter was talked over, and J. P. Sherwood desired to have the further sum of five hundred dollars, which was to be paid to him after the extension was granted, paid at the Fort Edward Bank.

Question. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Answer. I do not.

*Cross-examined by E. H. Stowe, on behalf of Jones, Wallingford & Co.*

I had no previous acquaintance with J. P. Sherwood, hereinbefore referred to, before the execution of the instruments hereinbefore referred to by him. I do not know who drew said instruments; they were drawn up before the parties came to my office I did not notice anything indicating that Mr. Sherwood was not sober at that time; they were talking there together generally, at that time, about the execution of these papers, but I do not now recollect of anything else that was said then that I have hereinbefore stated; they seemed to have fixed upon the matter before they came to my office.

T. S. VAN HOEVENBURGH.

Subscribed and sworn before me this 24th September, 1858.

GEO. DOWNING.
*Commissioner.*

J. K. MOORHEAD *et al.*
*vs.*
J. HERVEY JONES *et al.*
} No. 1, May term, 1858.

J. HERVEY JONES *et al.*
*vs.*
J. K. MOORHEAD *et al.*
} No. 3, May term, 1858.

Depositions of witnesses, on the part of the complainants, in No. 1, May term, 1858, taken in the above cases under the annexed
84 agreement and order of court, and in pursuance of notice to the defendants, before George Downing, esq. at Fort Edward, in the county of Washington and State of New York, on Saturday, the 26th September, 1858.

Present: W. Bakewell, solicitor for claimants; E. H. Stowe, solicitor for respondents.

James L. Culver being duly cautioned and sworn, testified as follows: My name is James L. Culver; I reside in Fort Edward, Washington county, New York. My occupation is teller of Bank of Fort Edward. As teller of said bank, it is my duty to receive deposits, and pay out money on checks deposited. I make entries in books of original entry of said bank of moneys received on deposit and paid out on checks. I have posession of books of original entry of said bank. I am acquainted with John P. Sherwood. There was on the 20th of December, 1856, five hundred dollars deposited to credit of John P. Sherwood, in said bank, as appears by the original book of entry of deposits of said bank. This entry is in my handwriting, and is in the

following words: "John P. Sherwood, per Calvin Adams, $500.00." I don't recollect of the deposit being made; but, as the entry is in my handwriting, I have no doubt it was received by myself. The following are the amounts, as appears by the book of original entry of said bank, drawn out by John P. Sherwood, on his checks, subsequent to the deposit above mentioned. The following are copies of entries in said book:

| | | | |
|---|---|---|---|
| 1856. | | | |
| Dec. 27. | J. P. Sherwood, | $25 | 00 |
| " " | J. P. Sherwood, | 25 | 00 |
| 1857. | | | |
| Jan'y 2. | J. P. Sherwood | 200 | 00 |
| " " | J. P. Sherwood | 60 | 00 |
| " " | J. P. Sherwood | 10 | 00 |
| " " | J. P. Sherwood | 115 | 00 |
| " " | J. P. Sherwood | 5 | 00 |
| " " | J. P. Sherwood | 25 | 00 |
| " 21. | J. P. Sherwood, | 10 | 00 |

The above checks, amounting to $475 50 (four hundred and seventy-five $\frac{50}{100}$ dollars,) were drawn by John P. Sherwood on the above-named deposit of five hundred dollars, between the 20th December, 1856, and the 21st January, 1857, inclusive. There was no deposit between the 20th December, 1856, and the 21st January, 1857, other than the five hundred dollars above mentioned, to the credit of John P. Sherwood, on general account. He (John P. Sherwood) sometimes makes special deposits, upon which he receives interest; but these deposits cannot be drawn out on checks for general account.
85 John P. Sherwood, between the 20th December, 1856, and 21st January, 1857, had no special deposit account with this bank, so that there were two deposits of any kind made to John P. Sherwood's credit, other than the five hundred dollars aforesaid, between said 20th December, 1856, and 21st January, 1857. The checks above referred to were paid on the strength of that deposit of five hundred dollars.

*Cross-examined by E. H. Stowe.*

I have no recollection of anything that was said by John P. Sherwood, when he drew the checks aforesaid, about the deposit hereinbefore referred to. I do not know that J. P. Sherwood knew that the deposit which I have mentioned was made by Calvin Adams.

JAMES L. CULVER.

Subscribed and sworn before me this 25th September, 1858.

GEO. DOWNING,
*Commissioner*

Circuit court of the United States, western district of Pennsylvania.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } No. 1, May term, 1858. Bill in equity.

JONES, WALLINGFORD & Co. *vs.* LIVINGSTON, COPELAND & Co. } No. 3, May term, 1858. Cross-bill in equity.

And now, to wit, September 25, 1858, it is hereby agreed that certified copies, under the seal of the Patent Office, and the signature of the Commissioner or the Acting Commissioner of Patents, of any instrument of writing recorded in the United States Patent Office, or of any other documents or records of said office, shall be received and read in evidence in the above cases, or either of them, with like effect as the originals themselves, without requiring proof of the execution thereof.

W. BAKEWELL,
*Solicitor for Livingston, Copeland & Co.*
STOWE & HAMPTON,
*Solicitor for Jones, Wallingford & Co.*

86

J. K. MOORHEAD *et al.* *vs.* J. HERVEY JONES *et al.* } No. 1, May term, 1858.

J. HERVEY JONES *et al.* *vs.* J. K. MOORHEAD *et al.* } No. 3, May term, 1858.

Depositions of witnesses on the part of J. K. Moorhead *et al.*, complainants in No. 1, May term, 1858, taken in the above cases, under the agreement and order of court of 11th September, 1858, and in pursuance of notice to the defendants, before William B. Webb, United States commissioner, in the city of Washington, District of Columbia, on the 1st day of October, 1858, and thereafter.

October 1st, 1858, 10 o'clock a. m. Present: W. Bakewell, solicitor for complainants, J. K. Moorhead *et al.*, and there being no appearance on behalf of Jones, Wallingford & Co., adjourned by commissioner until same day, at 4½ o'clock p. m.

October 1st, 4½ o'clock, p. m. Present: W. Bakewell, solicitor for complainants, J. K. Moorhead *et al.*

Augustus B. Stoughton, being duly sworn—

1st. What is your name, age, and occupation and residence?

A. Augustus B. Stoughton; I am upward of forty years of age. I am solicitor of patents, and reside in Washington city.

2d. Have you been at any time officially connected with the United States Patent Office? If yea, state for how long a time, and in what capacity.

A. I was connected with the Patent Office about five years, between years 1845 and 1850, first as clerk, and the last two years as machinist of the Patent Office.

3d. State whether you are acquainted with the parties to these suits, or any of them.

A. I know James K. Moorhead and Calvin Adams, but no other member of either firm.

4th. State when you became acquainted with James K. Moorhead, and whether or not you were employed by him to attend to any business in the line of your profession; and if yea, state for whom he employed you, and in what matter.

A. I have known James K. Moorhead for twenty-five years. On or about the 15th day of September, 1856, I was employed
87 by said Moorhead to act as attorney for Calvin Adams, in conjunction with William Bakewell, of Pittsburgh, in procuring an extension of a patent granted to J. P. Sherwood, on the 17th day of December, 1842, and reissued on the 13th of May, 1851, to Calvin Adams, as the assignee of said J. P. Sherwood.

5th. What, if any, obstacle to the granting of the extension, was observed by you on examination of the case, and at what date was this application for extension first made to the Patent Office?

A. In looking into the case, I discovered that the patent having been reissued to Calvin Adams, he not being the patentee, the rules and practice of the office would prevent the granting of the extension to said Adams, and on the 18th of October, 1855, the application for the extension appears by the records of the Patent Office to have been filed.

6th. What did you then do to remedy this defect, or to have it remedied? Did you write to any person on the subject, and if yea, to whom, and in what relation did the person you addressed stand to your client or clients in this case? And what did you state to be necessary?

A. On the 16th September, 1856, I advised W. Bakewell that it would be necessary to have the patent reissued to J. P. Sherwood, in order that Sherwood might be the patentee, as well as inventor, to enable the Commissioner to grant the extension; that to obtain the reissue of the patent to J. P. Sherwood, it was necessary that the patent should be assigned back by Adams to Sherwood for the balance of the unexpired term of fourteen years, for which it had been originally granted. This was, by letter, addressed to W. Bakewell, who was associate counsel in the case.

7th. Did any person subsequently call on you in relation to this matter? If yea, state who called, and what passed on the occasion. Were any papers left you? and if yea, state to the best of your recollection and belief what those papers were. Describe them as fully as you can, giving their dates, parties, and subject matter.

A. On the 26th September, 1856, W. Bakewell called on me at my office, in this city, and furnished me with the necessary funds to pay the Patent Office fees for the reissue and for the extension, and deposited with me certain papers in the case. These papers, to the best of my recollection and belief, were the following: An assignment, dated

16th September, 1856, from Calvin Adams to J. P. Sherwood,
88 for the Janus-Faced Lock Patent, for the unexpired term, that is until the 17th December, 1856, and this assignment contained a request by Calvin Adams to the Commissioner of Patents to reissue said patent to J. P. Sherwood. Second, an application signed and executed by John P. Sherwood to the Commissioner of Patents for the reissue of this patent to him; this paper contained, besides the necessary petition and oath, the specification and the power of attorney from John P. Sherwood to me, authorizing me, or my accredited agent, to do all things necessary to procure said reissue. The third paper was a petition signed by J. P. Sherwood to the Commissioner of Patents, for the extension of said letters patent for the term of seven years, from the 17th December, 1856; this document contained a power of attorney to myself and W. Bakewell, authorizing us to procure said extension. The fourth paper was an assignment, dated the 24th September, 1856, from J. P. Sherwood to Calvin Adams, of said patent, for the extended term thereof.

8th. What disposition did you make of the first paper mentioned in the answer to the foregoing interrogatory, being the assignment from C. Adams to J. P. Sherwood, dated 16th September, 1856?

A. That paper was deposited by me in the U. S. Patent Office, for record, on the 26th September, 1856. I now hold said paper in my hand; it appears to have been received and recorded in the United States Patent Office on the 26th day of September, 1856, and in Liber E 4, page 231, of Transfers of Patents.

9th. What disposition did you make of the second paper mentioned in your answer to the 7th interrogatory, as received on the 26th September, 1856, and at what date did you make such disposition of it?

A. The second paper, which was the application of John P. Sherwood for a reissue of his patent, I deposited in the U. S. Patent Office on 26th September, 1856.

10th. What disposition did you make of the third paper mentioned in your answer to the 7th interrogatory, as received by you on the 26th September, 1856?

A That paper, which was the petition of John P. Sherwood for extension of his letters patent for the term of seven years from the end of the first term, I deposited in the U. S. Patent Office on the 7th October, 1856.

11th. State whether or not the petition for extension referred to in your last answer had any blank left in it when you
89 received it. If yea, for what purpose was the blank left, and in what manner was it afterward filled up?

A. There was a blank in said paper where it recited the reissue of the patent. The date of said reissue being unknown when the paper was executed, it could not then have been put in. After the paper was delivered to me I filled up said blank with the date of the reissue, which was the 7th October, 1856.

12th. Was the patent which had been reissued to Calvin Adams on 13th May, 1851, as assignee for J. P. Sherwood, again reissued? If yea, who procured the reissue, and to whom was it granted?

A. It was again reissued to J. P. Sherwood, and was procured by Wm. Bakewell and myself on the 7th October, 1856.

13th. State whether the application for extension of letters patent to C. Adams, as assignee for J. P Sherwood, which was made on the 18th October, 1855, as stated by you in your answer to the 5th interrogatory, was proceeded with. What was done with it, and why?

A. That application was abandoned and canceled, on account of the informality which I stated in my answer to the 6th interrogatory.

14th. On what date was the new application made to the Patent Office for extension of the letters patent mentioned in your answer to the 12th interrogatory, and who filed the petition in the Patent Office? And was the petition the same as referred to by you in your answer to the 10th interrogatory?

A. The new application for the extension of the pateut was made on the 7th October, 1856. I filed the petition in the Patent Office, and that petition is the same paper referred to.

15th. Did you, subsequently to 26th September, 1856, receive from W. Bakewell, or from Calvin Adams, or from any of the firm of Livingston, Copeland & Co., complainants in this suit, any other documents or assignments in this matter of the reissue or extension of said patent?

A. I did not.

16th. You state in your answer to the 7th interrogatory, that on 26th of September, 1856, Wm. Bakewell called at your office in this city, and furnished you with the necessary funds to pay the Patent Office for the reissue, and for the extension, and deposited
90 with you certain papere in the case. State how much money he then paid you, and whether you gave him a receipt therefor.

A. He gave me fifty-seven dollars, and I gave him a receipt for that amount

17th. Were any further papers necessary for the procuring of the extension of said patent, besides the petition you referred to in your answer to the 10th and 14th interrogatories? If yea, state what further papers were necessary and how you procured them.

A. There was another paper necessary to comply with the requirements of the law, namely, a statement by J. P. Sherwood of his receipts and expenditures under the original patent; that paper I procured from H. P. Hamblin, from Fort Edward, New York, by mail.

18th. Did you address a letter to any person in relation to the papers you needed, as stated in your last answer? To whom and when did you write? Who directed you to do so? And state, if you can, the contents of your letter.

A. I addressed a letter to Hugh P. Hamblin, of Fort Edward, Washington county, New York, on 7th October, 1856, requesting him to have the paper left with him by Mr. Bakewell, of Pittsburgh, taken to a magistrate, and executed and forwarded to me.

19th. Did you recieve any reply to your letter? If yea, from whom, and when did you receive it, and what did it contain, and can you produce it?

A. I did receive an answer to my letter, dated Fort Edward, October 9th, 1856, signed by H. P. Hamblin, and containing the paper

for which I wrote; this letter and paper I received on the 13th October, 1856, and I have the letter referred to in my hand.

(Complainants' counsel asks to have the letter referred to annexed to the deposition as part thereof, and it is accordingly annexed and marked "Exhibit A, W. B. W., U. S. Comm'r.")

20th. What disposition did you make of the paper referred to in your answer to the last interrogatory, and when?

A. I deposited it in the U. S Patent Office on the 13th October, 1856, the same day I received it from Mr. Hamblin.

21st. In whose handwriting was the paper you received from Mr. Hamblin, and referred to in your answer to the last inter-
91 rogatory? Is the date of execution of said papers filled in in the same handwriting? If not, state, if you know, in whose handwriting the date is filled in, and what is the date inserted as the date of execution of said paper?

A. The paper was in the handwriting of Wm. Bakewell, the date of the execution of said paper is the 9th October, 1856. The date is not in the handwriting of W. Bakewell. It looks to me like the handwriting of Hugh P. Hamblin. The paper was signed and executed by J. P. Sherwood, before Nicholas M. M'Intyre, a justice of the peace.

22d. Did you receive any other communication, either verbally, or by letter, or otherwise, from H. P. Hamblin, in relation to the reissue or extension of said patent; and did you receive any instructions from J. P. Sherwood in relation thereto?

A. I never received any other paper or communication from Hugh P. Hamblin, nor any instructions of any kind from J. P. Sherwood, in relation either to the reissue or extension or the assignment.

23d. When was the patent granted to J. P. Sherwood on 17th December. 1842, and reissued to him on the 7th October, 1856, extended, and for what term?

A. The patent was extended on the 15th December, 1856, for the term of seven years from the 17th December, 1856.

24th. What disposition, if any, was made by you of the assignment dated 24th September, 1856, from J. P. Sherwood to Calvin Adams? In whose possession was it from the time you received it on the 26th September, 1856, as stated in your answer to seventh interrogatory, until such disposition was made of it?

A. I filed that assignment in the United States Patent Office, on the 16th of December, 1856, and it was in my possession from the day I received it, on the 26th September, 1856, until I so filed it for record in the United States Patent Office. I hold that paper now in my hand; it appears to have been received and recorded in the United States Patent Office on the 16th December, 1856, in Liber G 4, page 123, of Transfer of Patents.

25th. When the patent of 17th December, 1842, to J. P. Sherwood, reissued 7th October, 1856, was extended, as stated in your answer to the twenty-third interrogatory, to whom was the extended patent delivered? and state, if you know, what disposition was afterward made of it?

92 A. It was delivered to me, and I believe I handed it to Calvin Adams, on the same day that I received it, he being then in this city—I believe the 16th December, 1856. I desire to correct my

answer as above given, and now state, after examining my book, that I received the extended patent on the 15th December, and handed it to Calvin Adams on the 16th December.

26th. When did your connection with the matter of the *the* reissue and extension of said letters patent cease? Are you now in the employ of Calvin Adams, or of Livingston, Copeland & Co. in this case, and have you any interest whatever in the result of this suit?

A My connection with the extended patent ceased on the 16th of December, 1856, when I handed to Calvin Adams the extended patent. I am not retained in this case by either of the parties, and have no interest whatever in the result of this suit.

A. B. STOUGHTON.

Sworn to and subscribed before me, this 1st day of October, 1858.

W. B. WEBB,
*U. S. Commissioner.*

Examination adjourned until to-morrow at ten o'clock a. m., at my office, in the city of Washington.

And now, at ten o'clock a. m., at my office, in the said city of Washington, on this 2d day of October, came the complainants, Livingston, Copeland & Co., by W. Bakewell, their solicitor, and the examination was adjourned until Monday, October 4th, at 10 o'clock a. m., at my office.

And now, on this 4th day of October, 1858, at my office, came the complainants, Livingston, Copeland & Co., by W. Bakewell, their solicitor, at 10 o'clock a. m., and the examination was resumed.

And Thomas H. Upperman, a witness produced on the part of the complainants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, deposes and says as follows:

1st. What is your name, age, occupation and residence?

A. Thomas H. Upperman; I am nineteen years of age; I am clerk for Augustus B. Stoughton, esq., solicitor for patents, and I reside in Georgetown, in the District of Columbia.

2d. State how long you have been in the employ of Augustus B. Stoughton.

93 A. Since April, 1854.

3d. Are you acquainted with Augustus B. Stoughton's handwriting?

A. Yes, sir.

4th. Please to state whether the paper now shown to you is in the handwriting of Mr. Stoughton.

A. It is, the whole of it.

The counsel for complainants here produced, and offered to be annexed as a part of the deposition, the paper marked Exhibit "B," which is accordingly annexed as part thereof.

THOMAS H. UPPERMAN.

Sworn to and subscribed before me, this 4th day of October, 1858.

W. B. WEBB,
*U. S. Commissioner.*

J. K. Moorhead *et al.* vs. J. Hervey Jones *et al.* } No. 1, May Term, 1858.

J. Hervey Jones *et al* vs. J. K. Moorhead *et al.* } No. 3, May Term, 1858.

Depositions of witnesses on the part of J. K. Moorhead *et al.*, complainants in No. 1, May term, 1858, taken in the above cases under the agreement and order of court of 11th September, 1858, and in pursuance of notice to the defendants, before H. Sproul, United States commissioner, in the city of Pittsburgh, on Thursday, the 7th day of October, 1858, and on divers days thereafter.

And now, to wit, Oct. 7, 1858, in pursuance of annexed notice, appeared before me, Henry Sproul, a commissioner duly appointed by the circuit court of U. S. for western district of Pennsylvania, the counsel of the parties in the above suit, and the counsel of complainants offer a certified copy from the records of the Patent Office of an assignment dated 16th Sept., 1856, (marked "B, H. Sproul, commissioner, Oct. 7, 1858,") between Calvin Adams, of the first part, and John P. Sherwood, of the second part, and recorded in U. S. Patent Office on 26th September, 1856, being an assignment from Calvin Adams to John P. Sherwood, of Calvin Adams' right,
94 title, and interest in certain letters patent reissued to Calvin Adams on the 13th May, 1851, for improvement in door-locks, being reissue of letters patent granted on 17th December, 1842, to J. P. Sherwood.

Also a certified copy from the records of the U. S. Patent Office of an assignment dated 24th day of September, 1856, from John P. Sherwood to Calvin Adams, recorded in U. S. Patent Office on 16th December, 1856, marked "D, H. Sproul."

Adjourned to meet to-morrow at 2 o'clock p. m.

And now, October 8, 1858, met pursuant to adjournment.

Complainants now offer a lock, with keeper attached, marked "X, H. Sproul," with the following admission:

*Copy of admission.*

Counsel of both parties present.

Livingston, Copeland & Co. vs. Jones, Wallingford & Co. } No. 1, May Term, 1858. In equity.

It is agreed by the respondents in this case that a lock with keeper attached, marked "X, H Sproul," and offered in evidence by complainants, shall be admitted and received in evidence in this case; and further, it is admitted by the respondents that said lock and keeper were manufactured and sold by them, and that they have been, pre-

viously to the commencement of this suit, and subsequently thereto, engaged in the manufacture and sale of locks and keepers similarly constructed.

GEORGE P. HAMILTON,
STOWE & HAMPTON,
*Solicitors for Plaintiff.*

October 8, 1858.

Complainant offers in evidence a certified copy from the records of the Patent Office, being exhibit "A," on file in this case, and being a certified copy of letters patent reissued to John P. Sherwood on 7th October, 1856, to which is annexed a copy from the records of the office of the certificate of the Commissioner of Patents extending said letters patent.

Complainants further offer in evidence a certified copy from records of Patent Office, (being exhibit marked "C" in said case,) being an assignment from Calvin Adams to Livingston, Copeland & Co.

Adjourned till to-morrow at 2 p. m.

H. SPROUL, *Com'r.*

95 October 9, 1858. Met pursuant to adjournment, and by agreement of parties adjourned to meet on Monday next at 11 o'clock a. m.

H. SPROUL, *Com'r.*

October 11th, 1858. Parties met pursuant to adjournment, and by consent adjourned to meet to-morrow morning at 10 o'clock.

H. SPROUL, *Com'r.*

October 12, 1858. Parties met. Present: W. Bakewell, and by consent adjourned to meet to-morrow at 10½ o'clock.

H. SPROUL, *Com'r.*

October 13th, 1858. Parties met pursuant to adjournment. Present, the counsel for both parties.

Complainants offer in evidence a certified copy of the model filed in the Patent Office, with the original patent issued to John P. Sherwood, on the 17th December, 1842, certified from the records of the U. S. Patent Office, marked "W, H. Sproul."

Also a certified copy from the records of the Patent Office of papers filed in the matter of the application of J. P. Sherwood for the extension of letters patent issued to him on 17th December, 1842, with copy of file wrapper in said case, marked "U, H. Sproul."

Also a certified copy of all papers found on file and record in application of John P. Sherwood for second reissue of patent granted to him 17th December, 1842, in accordance with which application letters patent were reissued to said J. P. Sherwood, October 7th, 1856; the annexed copies are exclusive of patent as reissued, marked "T, H. Sproul."

Also certified copy from records of Patent Office of J. P. Sherwood's petition for extension of letters patent granted to him 17th December, 1842, with accompanying statement, marked "S, H. Sproul."

William Bakewell sworn.—(Examined by C. Shaler.) I am one of the solicitors for the complainants in this suit. In the fall of 1855 I was employed by Livingston, Copeland & Co., on behalf of Calvin Adams, to procure an extension of letters patent granted to John P. Sherwood on the 17th of December, 1842, and which had been reissued to Calvin Adams in May, 1851, for improvement in door-locks, now commonly known as the Janus-faced door lock, being the same patent and improvement stated in complainants' bill in this case. I accordingly proceeded to Washington city, in the month of October, 1855, and there met John P. Sherwood and Calvin Adams. I
96 there prepared certain papers at the request of Sherwood and Adams, preparatory to applying to the Patent Office for an extension for seven years for said patent. These papers were a petition to the Patent Office in the name of John P. Sherwood, which was signed by him; and also a statement of John P. Sherwood's receipts and expenditures on account of said patent. This was sworn to by Sherwood in Washington city, and these papers were filed by me in the United States Patent Office, in October, 1855. The office fee for the extension was paid by Calvin Adams. Calvin Adams then held an assignment from John P. Sherwood for the extended term, and also an agreement with Sherwood in relation to procuring the extension.

The Patent Office agreed to receive this application for extension of Sherwood's patent, on condition that I would draw their attention to the case in proper time. Subsequently, in the month of September, 1856, I received a letter from A. B. Stoughton, who had been employed as my colleague in this extension application, stating that it would be necessary to cancel the application of extension of Sherwood's patent, filed in October, 1855, and file a new application, because Sherwood's patent having been reissued in May, 1851, to Calvin Adams, Adams had thus become the patentee, and the rules and practice of the Patent Office required that the inventor must be the patentee, otherwise the extension would not be granted. Mr. Stoughton also recommended as advisable or necessary that the patent should be reissued to Sherwood, so as to make Sherwood the patentee; to accomplish this it was deemed necessary that Adams should transfer the patent back to Sherwood. Calvin Adams then lived at Oak Hill, New York. I proceeded, soon after receiving Stoughton's letter, to Fort Edward, Washington county, New York. Calvin Adams went with me to Fort Edward, where John P. Sherwood then resided. We arrived there on the 23d September, 1856. The object of my visit was to have Calvin Adams assign the patent, before referred to, back to John P. Sherwood, for the purpose of having it reissued to Sherwood; to get Sherwood to make application to the Patent Office for reissue to him of the said patent, and also to get Sherwood to make and sign a new application for extension of said letters patent, for the term of seven years, from the 17th December, 1856. I also deemed it expedient to procure from John P. Sherwood another assignment to Calvin Adams of the extended term of said patent, because Adams would have to assign the patent back to Sherwood in order to obtain the reissue.

I employed, at the request of Calvin Adams, to assist in this matter, Hugh P. Hamblin, esq., practicing attorney in Fort Edward,
97 and Calvin Adams, at my instance and in my presence, paid him a fee, and told him that he wished to employ him in this matter. He is the same person whose testimony has been taken by respondents.

(Respondents' counsel objects to this part of the testimony, as regards the employment of Mr. Hamblin, as being irrelevant and immaterial.)

On the afternoon of the 24th September, 1856, I went to the office of H. P. Hamblin, in the town of Fort Edward, by appointment, to attend to the execution of the papers that had been prepared in this matter. Part of the papers were prepared before I went to Fort Edward, and part of them in Fort Edward, before I went to the office of Mr. Hamblin. Adams and I had interviews with Sherwood previous to this, in relation to the execution of these papers. Sherwood met us at Hamblin's office; he came in with Calvin Adams, not long after I got there, I think. There were present at Hamblin's office, at the execution of the papers, John P. Sherwood, Calvin Adams, Nicholas M'Intyre, (who was stated to me to be a justice of the peace,) Hugh P. Hamblin, and myself. The papers which were executed at that time were the following: 1st, an assignment from Calvin Adams to John P. Sherwood, dated 16th September, 1856.

Adjourned to meet at 9 o'clock to-morrow morning.

H. SPROUL, *Commissioner.*

October 14th, 1858, parties met pursuant to adjournment. Present, the counsel of both parties.

*Mr. Bakewell, resumed.*

The original of the assignment, above referred to, is recorded in the Patent Office. and a certified copy of the same is in evidence in this case as Exhibit "B, H. Sproul;" the subscribing witnesses to said assignment were H. P. Hamblin and myself, and it was acknowledged before N. M'Intyre. There was also executed at that time an assignment, which is in evidence in this case, and marked "D, H. Sproul." This paper was executed by John P. Sherwood, in my presence, and in the presence of Calvin Adams. H. P. Hamblin and myself were subscribing witnesses, and it was acknowledged at that time by John P. Sherwood, before N. M'Intyre. There was also at that time executed by John P. Sherwood another assignment, the original of which is now offered in evidence, and a copy of which is annexed, marked "R, 1, H. Sproul," and the original, which
98 has been compared by me with the copy, has been marked by me "R, 2, H. Sproul." That assignment was executed by John P. Sherwood in my presence, and in the presence of the other subscribing witness, H. P. Hamblin, and my name as subscribing witness thereto is in my proper handwriting; it was acknowledged before N. M'Intyre at that time. There was also executed by John

P. Sherwood at that time an application for reissue of patent, with specification annexed, a certified copy of which is in evidence, marked "T, H. Sproul." The office file annexed to said exhibit did not form a part of the papers then executed by J. P. Sherwood. There was also signed by John P. Sherwood at that time a petition to the Commissioner of Patents for extension, which forms part of Exhibit "S, H. Sproul," in this case. This petition necessarily recited the reissue to John P. Sherwood of the patent which had been reissued to Calvin Adams in May, 1851. And as this reissue to Sherwood had not been obtained at the time this paper was executed, a blank was left for the date in the body of the petition, in order to have the same filled up after the reissue to Sherwood should be granted. That petition contained a power of attorney to A. B. Stoughton and myself, to procure the extension. Attached to this petition with the Exhibit "S" is a statement by John P. Sherwood of his receipts and expenditures on account of his patent, addressed to the Commissioner of Patents. This paper last spoken of, I believe, was signed by Sherwood at the time. It was left by me with Hugh P. Hamblin, to have the same sworn to before a justice of the peace by Sherwood, after the reissue of the patent to Sherwood should be granted. I told Hamblin that he would receive word from A. B. Stoughton when to have this last paper sworn to by Sherwood, and that he must then mail it to A. B. Stoughton, to Washington city. These were, so far as I know, all the papers executed by Sherwood at that time. There was no power of attorney to me, either drawn up or executed by John P. Sherwood, other than that referred to as the power of attorney included in the petition to the Commissioner of Patents for extension of Sherwood's patent, and the power of attorney included in the application for reissue of said patent, authorizing A. B. Stoughton, or his accredited agent, to act in relation thereto. I never doubted that the assignment from John P. Sherwood to Calvin Adams of the extended term of said patent, hereinbefore referred to as Exhibit "D," was absolutely and unconditionally delivered by John P. Sherwood to Calvin Adams at the time of its execution. I have no recollection whatever of anything having been said at that time to me or to Calvin Adams, or to any other person in my hearing, indicating a different intention
99 on the part of John P. Sherwood; and I know of no agreement having been made either verbally or in writing, either before or after the execution of that assignment, contradicting the terms of that assignment, or leading me to suppose that Sherwood did not then deliver the same to Calvin Adams unconditionally, as I have before stated. I left Fort Edward on the evening of the 24th September, 1856, the day on which the papers had been executed, and proceeded forthwith to Washington City, taking with me all the papers referred to as executed by Adams or Sherwood, excepting Sherwood's statement of receipts and expenditures, which I before stated I left with H. P. Hamblin. I arrived at Washington city on September 26th, 1856, and called on A. B. Stoughton. I handed over to him the assignment from Adams to Sherwood, a copy of which is contained in Exhibit "B;" the assignment from Sherwood to Adams, a copy of which is contained in Exhibit "D;" Sher-

wood's application for reissue to him of letters patent which had been reissued to Calvin Adams in May, 1851, a copy of which is contained in Exhibit "T;" and Sherwood's petition for extension of said letters patent, being the first paper certified to in Exhibit "S." I also paid him fifty-seven dollars for the Patent Office fees of said reissue and extension applications, and recording the assignment, and instructed him to write to H. P. Hamblin as soon as the patent was reissued, to have the statement which I left with Hamblin forwarded to him. The assignment from Sherwood to Adams of the extended term, heretofore referred to, I left with Stoughton, to place it upon record as soon as the extension should be granted, and I have no recollection of having seen the original paper from that day till about three weeks since.

*Question by complainants' counsel.*

Hugh P. Hamblin, in his testimony taken in this case, states in substance as follows: "Mr. Bakewell was to deliver this assignment to Calvin Adams when the extension was granted, and when Mr. Bakewell was to receive notice from Mr. Sherwood that the moneys due or agreed to be paid from Mr. Adams to Mr. Sherwood were paid." I wish you to state what knowledge or recollection you have of the facts stated in the above extracts?

A. I have no knowledge whatever of any such understanding or agreement having been made by Sherwood to Adams, nor have I any recollection or knowledge of any such instructions having been given to me by the said parties, or either of them.

100 *Question by complainants' counsel.*

State in the same connection whether the conditions spoken of by Nicholas M'Intyre, in his testimony on file in this case, in relation to the said assignment, was spoken of in your presence, and whether the assignment was delivered to you upon the conditions stated by Mr. M'Intyre?

A. The assignment from Sherwood to Adams of the extended term of Sherwood's patent was not delivered to me by John P. Sherwood upon the conditions mentioned in N. M'Intyre's testimony, nor upon any condition whatsoever, that I am at all aware of. As I before stated, I heard of no condition annexed to the delivery of that assignment to Calvin Adams at that time, and I received no power of attorney from John P. Sherwood in relation to the delivery of that assignment to Calvin Adams.

*Cross-examination by respondents' counsel.*

There was no formal delivery to me of the assignment; I received it from Calvin Adams after it had been delivered to him; the papers were executed there and delivered to Adams; that is my recollection.

I believe from the time Sherwood came in I did not leave the office during the time of the execution and delivery of the papers, and I believe that I did not leave Hamblin's office on the occasion of the in-

terview at which the papers were executed from the time Sherwood came there until after the execution of the papers. This is my confident belief, but I am not positive, but I am sure I was there at the execution of the papers. I believe the consideration was paid previously to the execution. I do not think any money was paid to Sherwood at that time, at least not that I saw.

W. BAKEWELL.

Adjourned until to-morrow afternoon, at 2 o'clock.

October 15, 1858. Parties met pursuant to adjournment, and adjourned to meet to-morrow morning, at 11 o'clock.

October 16, 1858. Met pursuant to adjournment, and by consent of both parties adjourned to meet on Monday next, at 10 o'clock a. m.

October 18, 1858. Parties met pursuant to adjournment, and testimony on part of complainants closed.

101 EXHIBITS.

EXHIBIT "A—*H. Sproul.*"

*U. S. Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed is a true copy from the records of this office of letters patent reissued to John P. Sherwood, on the 7th day of October, 1856, to which is annexed a true copy from the records of the office of the certificate of the Commissioner of Patents, extending said letters patent.

In testimony whereof, I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this first day of December, in the year of our Lord 1857, and of the independence of the United States the eighty-second.

{ Seal of the Patent Office. }

J. HOLT.

*The United States of America to all to whom these letters patent shall come:*

Whereas, John P. Sherwood, of Fort Edward, N. Y., has alleged that he has invented a new and useful improvement in door-locks, (for which letters patent were issued to him, dated 17th December, 1842—which letters were surrendered by Calvin Adams, assignee of said Sherwood, and new letters issued to said Adams, dated 13th May, 1851—which letters having been re-assigned to said Sherwood, the same have been surrendered by him, canceled, and new letters ordered to issue to him on an amended specification,) which he states has not been known or used before his application; said Adams having made oath that the said Sherwood is a citizen of the United States, that he did verily believe that said Sherwood was the original and first
102 inventor or discoverer of the said improvement, and that the

same hath not, to the best of his knowledge and belief, been previously known or used; said Sherwood having paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are, therefore, to grant, according to law, to the said John P. Sherwood, his heirs, administrators or assigns, for the term of fourteen years from the said seventeenth day of December, one thousand eight hundred and forty-two, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said improvement, a description whereof is given in the words of the said Sherwood in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

{ Seal of the Patent Office. } Given under my hand, at the city of Washington, this seventh day of October, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States of America the eighty-first.

GEO. C. WHITING,
*Acting Secretary of the Interior.*

Countersigned and sealed with the seal of the Patent Office.

C. MASON, *Commissioner of Patents.*

*The schedule refered to in these letters patent, and making part of the same.*

*To all whom it may concern:*

Be it known that John P. Sherwood, of Sandy Hill, Washington county, and State of New York, has contrived and invented some new and useful improvements not known or used before, in the construction and manufacturing of door-locks or cased fastenings, in which the movements are contained between the sides of the case, and the
103 following is an exact and full description thereof, reference being had to the accompanying drawing, which forms part of this specification:

Every part of my fastening may be made of cast iron, and for most parts it is the cheapest material. My first improvement is in the case E, figure 6, which I made double faced; each face projects over the sides and back end. The front end has no lip or projection on, like ordinary iron cases, but its edges are plain and covered by the two face plates. The aperture for the bolt, in the front end of said lock, is as wide as said end, so that the moulder may dispense with setting a core, and a stay, marked S, (with the screw-holes through it,) from $\frac{3}{4}$ to $1\frac{1}{2}$ inch wide and from $1\frac{1}{2}$ to 3 inches long, rises on the lower front corner of each face, protecting the bolt-hole. This improvement facilitates and cheapens the casting of a case, by lowering the sides and ends and doing away with the setting of a core. It also fits every outside case, for either a right or left hand door, without turning the lock or latch upside down, and it renders the lock stronger and more

durable. A glance at the drawing shows its peculiarities and their use. The inside of the case is cast with common fixtures, such as friction plates, studs and braces, to keep the bolt and other detached pieces in their respective places.

My second improvement is in making the bolt with notches, one on its lower and one exactly similar on its upper edge, so that, in connection with the vibrating or connecting bar A, a horizontal motion is given to the bolt, and also adapts it, by simple reversion, to a right or left hand door. Each is cut perpendicularly and extends through one-third part of the bolt, reducing the bolt in the centre, between the two notches, to one third of its original size.

Figure 1 shows the bolt with its two similar and opposite notches, *a a*, its back end *b* forked so that it may pass a screw, and its front end *c* beveled, to make one bolt answer for both lock and latch.

Figure 2 exhibits the vibrating or connecting bar A, for moving the bolt, which is a very irregular shape, and nearly fills the upper half of the case. Its lower front corner *d*, projecting downward, is made to fit in the notch *a*, in the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner, *e* shows a small hole for a screw, on which it vibrates, and near by *f* shows a large one for the handle. Nearly all of the back end of this bar is made quite thin, as at $A^2$, leaving space between it and the case on one side for one sliding car or impelling weight, and on the other side for two sliding cars, hereinafter described. On each side of this bar are three studs, *g*, *h*, *i*, in height equal to the original
104 thickness of the bar, and a curved key-guard K, not quite as high as the studs which shield the locking car. Stud *g* is at the lower back corner, *h* near the centre, and *i* above and back of *h*. Each stud on one side has a corresponding stud, similar and similarly situated, on the opposite side; *h*, and *i*, form an inclined track or way, *i* being placed obliquely above *h* toward the front end of the case; and as the corresponding studs on the opposite side of the bar form a similar track or way, we have double inclined track or way for the safety cars (hereinafter described) to pass up and down. A little above the corner stud *g*, a notch *l* opens upon the back end of the bar, toward a point below the centre stud *h*, a passage way for the stud *m* of the double action locking car B, hereinafter described.

Figure 3 represents the double action locking car B, of which the exact form can only be learned from a model or drawing. It is a thin plate with a stud *m* near one corner, on one side, and a much shorter stud directly opposite, on the other side. These studs add power to this car, and connect it with safety cars G $G^2$, hereinafter described, in a way that holds the three cars fast together when locked. The large notch *n* gives room for the double action locking B, passing the stud *h* of the connecting bar A. The sides of this notch *n* are in part horizontal, and in another oblique or inclined. In one part of its movement on the studs *h* and *g* of said connecting bar it is horizontal, and in another inclined. The studs *h* and *g* of the vibrating or connecting bar A thus becomes, at different periods, a horizontal and an inclined track or way for the locking car B to move upon. The small notch O admits the key (figure 5) by which the car is moved. An

accute angular projection *p*, near the stud *n*, catches under a stud D, on the side of the case E, when locked (as seen in figure 8) and fastened to the car. The locking is effected by a compound and backward movement of this car B, which is new and peculiar to my lock.

Another car, exactly like this, and with similar action, may be attached to the other side of the connecting bar, if greater security be desired. G (figures 4 and 7) shows the shape of the two safety cars, which are exactly alike except that one, $G^2$, (figure 7,) is twice as thick as the other, and the thicker one has a groove H over the key-guard *k* of the connecting bar A. A notch *g* in each of these cars, G $G^2$, receives one of the studs *m* of the locking car B, when unlocked, as seen in figure 6, and *r* is a long opening for the studs *h* and *i* of the connecting bar.

In size, one of these cars G is nearly twice as large as the locking car B. One is on each side of the connecting bar A. The double action locking car lies in a cavity of the connecting bar and under the thinnest safety car $G^2$. The safety car always moves on the
105 double inclined track or way before described, and in a direction opposite to that of the locking car. They add strength and stability to the locking car, and prevent the locks being picked.

In the process of locking the key is turned back instead of forward, as in other locks. The safety cars rise simultaneously to their utmost height. The double action locking car then moves horizontally a short distance, after which it descends toward the back end of the case upon its inclined track or way formed by studs *h* and *g*, the safety cars, at the same moment, descending toward the front end of the case on the double inclined track or way formed by studs *h* and *i*, before described, until it reaches its lowest point, and there all three combine in firmly holding both the vibrating or connecting bar and bolt fast, as represented in figure 8, which shows the bolt as locked, the projection *p* being locked under stud D, and the safety car G having dropped down behind stud *m*, which locks the whole together. To unlock the bolt, the safety cars G must be first raised. Figure 5 represents the form of the key.

In locking, the aperture *v v* of the key passes around the guard *k* of the connecting bar A, and the bit *u* raises the safety guard $G^2$, while, at the same time, the bit *t*, entering the notch O of the double acting car, strikes the back side of the notch and moves the locking car B, at first horizontally, and then in a descending backward oblique or inclined direction, until the projection of the car becomes fast under and against stud D, and holds the connecting bar A and bolt *c* stationary. In unlocking, a reverse movement is necessary, first raising the safety cars as before stated.

What I claim as my invention, and for which I desire an exclusive right by letters patent, is, making the cases of door-locks and latches double faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described.

I also claim the peculiar construction and double action (upon an inclined and horizontal track or way) of the locking car B, as hereinbefore described, and the combination of the locking car B and

safety cars G $G^2$ with one another, and with the connecting or vibrating bar and bolt A, as within described, so as to fasten the bolt *c* securely and prevent its being picked.

I also claim so constructing the bolt as hereinbefore described, that by simply turning it over in the lock case it is adapted to a right or left hand door.

JOHN P. SHERWOOD.

Witnesses,
H. P. HAMBLIN.
W. BAKEWELL.

106 Whereas, upon the petition of John P. Sherwood, of Fort Edward, N. Y., for an extension of the within patent, granted to him on the 17th day of December, 1842, and reissued the 7th day of October, 1856, the undersigned, in accordance with the 18th section of the act of Congress, approved the 4th day of July, 1836, entitled "An act to promote the progress of the useful arts, and to repeal all acts hereinbefore made for that purpose;" and the act approved the 27th day of May, 1848, entitled "An act to provide additional examiners in the Patent Office, and for other purposes," did, on this 15th day of December, 1856, certify that said patent ought to be extended.

Now, therefore, I, Charles Mason, Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend the said patent, and certify that the same is hereby extended for the term of seven years, from and after the expiration of the first term, viz: from the 17th day of December, 1856; which certificate being duly entered of record in the Patent Office, the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years.

{Seal of the Patent Office.} In testimony whereof, I have caused the seal of the Patent Office to be hereunto annexed this 15th day of December, 1856, and of the independence of the United States the eighty-first.

C. MASON, *Commissioner.*

EXHIBIT "W—*H. Sproul.*"

*The United States Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed is a true duplicate of the model as it now appears on file in this office, illustrating letters patent issued to John P. Sherwood, December 17th, 1842, for an improvement in door-locks, which letters patent were reissued to Calvin Adams, assignee of said Sherwood, May 13th, 1851, and were reissued a second time in the name of the said Sherwood, October 7th, 1856, and were extended for seven years from and after December 17th, 1856.

{Seal of the Patent Office.} In testimony whereof, I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this 9th day of October, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States the eighty-third.

J. HOLT.

107 EXHIBIT "B—*Geo. Downing.*"

Whereas John P. Sherwood, of Fort Edward, Washington county, State of New York, did obtain letters patent for an improvement in door-locks, which letters patent bear date December —, 1842; and whereas Calvin Adams, of Oak Hill, county of Greene, State of New York, did purchase the said John P. Sherwood's whole right and title to said patent, by assignment duly made November, 1850; and whereas the said John P. Sherwood has this day petitioned the Commissioner of Patents for an extension of said patent, to be issued to said Calvin Adams: Now, this indenture witnesses that the said John P. Sherwood agrees to aid the said Calvin Adams in obtaining the extension of the said patent by signing his name to any paper or article that he, the said John P. Sherwood, can conscientiously subscribe to, for the furtherance of his claim to extension; and further agrees to go to Washington city, if desired to go by the said Calvin Adams, or his legal representatives; the said Calvin Adams, or his representatives, paying all necessary expenses And for and in consideration of the above petition for extension, for the assignment of the right to the extension, and for the agreement to assist in obtaining the extension, the said Calvin Adams has this day paid the said John P. Sherwood the sum of five hundred dollars; and the said Calvin Adams obligates himself and his legal representatives to pay to the said John P. Sherwood, or his legal representatives, the further sum of five hundred dollars, at the Fort Edward Bank, within ten days from the time that the said extension is granted, agreeable to the law for extending patents made and provided.

JOHN P. SHERWOOD. [L. S.]
CALVIN ADAMS. [L. S.]

Signed, sealed and delivered in the presence of, "at the Fort Edward Bank," interlined before execution—

M. H. GARNER, *Albany, N. Y.*
T. S. VAN HOEVENBURGH, *Albany, N. Y.*

EXHIBIT "A—*Geo Downing.*"

108 Whereas I, John P. Sherwood, of Fort Edward, in the county of Washington, State of New York, did obtain letters patent for an extension of a patent granted the 17th day of December, 1842, for an improvement in door-locks: Now, this indenture witnesses that for and in consideration of five hundred dollars to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold, and set over unto Calvin Adams, of Oak Hill, Greene county, State of New York, all the right, title and interest which I have, or may have, in the said invention and extension as secured to me by said letters patent for extension; the same to be held and enjoyed by the said Calvin Adams for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which letters patent for extension are or may be granted, as

fully and entirely as the same would have been held and enjoyed by me, had the assignment and sale not been made.

In testimony whereof, I hereunto set my hand and affix my seal, this* day of October, 1855.

J. P. SHERWOOD. [L. S.]

Sealed and delivered in the presence of witnesses:
H. M. GARNER, *Albany, New York.*
T. S. HOEVENBURGH, *Albany, New York.*

EXHIBIT "U—*H. Sproul.*"

*The United States Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed are true copies of certain papers filed in the matter of the application of John P. Sherwood for an extension of letters patent issued to him bearing date 17th December, 1842.

{Seal of the Patent Office.} In testimony whereof, I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this 7th day of October, anno Domini 1858, and of the independence of the United States the eighty-third.

J. HOLT.

*To the Commissioner of Patents:*

I, John P. Sherwood, of Fort Edward, Washington county, in
109 the State of New York, having applied by petition to the Commissioner of Patents for an extension of certain letters patent of the United States, for an improvement in door-locks, dated the 17th day of December, 1842, which patent was in the year 1851 reissued to Calvin Adams, of Pittsburgh, in the State of Pennsylvania, but now of Oak Hill, in the county of Greene, and State of New York, do hereby make the following statement of my receipts and expenditures in the matter of my said invention, and of the ascertained value of said invention:

| | |
|---|---|
| I was two years engaged in perfecting my invention; the value of my time and labor is worth at least | $1,000 |
| I also paid office fees on my patent | 30 |
| I paid for agents' fees, preparing the specif., &c | 150 |
| And expended in experimenting on the manufacture the sum of | 50 |
| My actual outlay was | $1,230 |
| The only remuneration I have received for my ingenuity, labor, and expenses, was the amount for which I sold my patent to Calvin Adams | 200 |
| | $1,030 |

The foregoing is a correct statement of my receipts and expenditures, which exhibits an actual loss of over one thousand dollars on my patent. This sum of two hundred dollars I received from C. Adams about four years ago, and I have not reaped any further profit or advantage from my patent, and so far from having been remunerated for my ingenuity, or time and money expended in perfecting my invention, I have, as shown, already suffered an actual loss.

Nor has the failure on my part to obtain from the sale and use of my invention a reasonable remuneration for the time, ingenuity and expense bestowed thereon, been in any way owing to any neglect or fault on my part. My invention, to be profitable, could not be carried into successful operation without the expenditure of a large amount of capital, and the establishment of an extensive manufactory, and the use of costly machinery. I could not, however, command the necessary capital, nor induce capitalists to undertake the manufacture of my improved lock, for my benefit. I was compelled either to abandon my invention altogether, or allow the patent to pass out of my hands, and transfer it, for a mere trifling sum, to those who were willing and able to introduce it into general use. Being unable to do anything myself during the first nine years of the term for
110 which my letters patent were granted, I was driven to choose the latter alternative, or else lose all that I had expended, and the result has been that during the four years which has elapsed since I parted with my patent to Mr. Adams my lock has been introduced into general use, and has proved a very useful and valuable invention; so that just as my patent is about to expire my invention has become a very profitable one, and would, if extended, prove highly remunerative.

I did all that I could to introduce my invention, but ultimately had to sacrifice it for the trifling sum of two hundred dollars, for the purpose of securing its introduction into general use.

To show the value of my invention, and the advantage which the extension of my patent would secure to me, I will further state that as a partial payment for my invention, if extended, I have received, on the 8th day of October inst., from Calvin Adams the sum of five hundred dollars as an absolute payment, he running the risk of the extension of my patent for the term of seven years from the date of its expiration, and if the patent is extended as prayed for I shall receive for my said invention a further amount, which will remunerate me.

I therefore ask, as the only means by which I can at all be repaid for my invention, and for my loss of time and money, and rewarded for my ingenuity, that my petition be granted, and my patent be extended for the term of seven years from the date of the expiration of the existing patent.

I would further state that I firmly believe, and the experience of the use of my invention during the four years that it has been in use fully warrants the statement, that my invention is a valuable one, for which I ought to be compensated, and if extended the patent would prove highly remunerative. I believe that my invention is worth at the least from three to five thousand dollars.

J. P. SHERWOOD.

Before me, a justice of the peace in and for said district, personally came the above-named John P. Sherwood, who, being duly sworn, did depose and say that the facts herein set forth are correct and true. Sworn and subscribed before me, this 18th day of October, 1855.

JOHN L. SMITH.

111 *Extension.* (24.)

No. Foreman: John P. Sherwood, of Fort Edward, county of Washington, State of New York.

DOOR LOCKS.

| | | |
|---|---|---|
| | Rec'd. | Oct. 18, 1855. |
| | Petition, | — — — |
| | Affidavit, | — — — |
| | Specification, | |
| | Drawing, | |
| | Model, | |
| | Cert. dep. | |
| 1 | Cash, $40, | Oct. 18, 1858. |
| | Examined, | |
| 2 | Issue, | |
| 4 | Patented, | '185 |
| | Recorded, vol. page | |
| | Patented, Dec. 17, 1842. | |
| | Hearing, Dec. 1, 1856. | |
| | Closing testimony, Nov. 21. | |

Canceled. See new application of Oct. 7, '56.

Not to be advertised until within 90 days of expiration. Mr. Bakewell to call attention to the case.

WM. BAKEWELL, *Pittsburgh.*

EXHIBIT "B—*H. Sproul, Com'r.*"

*The United States Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed are true copies from the records of this office.

In testimony whereof, I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-sixth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States the eighty-second.

{ Seal of the Patent Office. }

J. HOLT.

112 This indenture, made this 16th day of September, in the year of our Lord 1856, between Calvin Adams, (now) of Oak Hill, in the county of Greene and State of New York, of the first part, and John P. Sherwood, of Fort Edward, Washington county, in said State, of the second part:

Whereas letters patent of the United States were granted on the 17th day of December, 1842, to said John P. Sherwood for an improvement in door-locks; and whereas the said letters patent were surrendered, and on the 13th day of May, 1851, reissued to Calvin Adams:

Now, this indenture witnesseth that the said party of the first part, for and in consideration of the sum of one dollar to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, hath assigned, sold, and set over, and by these presents doth assign, sell, and set over, unto the said John P. Sherwood all his right, title, and interest in said invention, as secured to him, the said Calvin Adams, by said reissued letters patent. The same to be held and enjoyed by the said John P. Sherwood for his own use and behoof, and the use and behoof of his legal representatives, to the full end of the term for which said letters patent are granted, to wit, until the 17th day of December, 1856, as fully and entirely as the same would have been held and enjoyed by the said Calvin Adams had this assignment and sale not been made. And the said Calvin Adams doth hereby request the Commissioner of Patents to reissue the said patent to the said John P. Sherwood.

In testimony whereof, the said Calvin Adams hath to these presents set his hand and seal the day and year first before written.

CALVIN ADAMS. [L. S.]

Sealed and delivered in presence of—the words "desirous of obtaining an interest therein," on the 11th line, and the word "part," in the last line but one, being erased; and the words "Calvin Adams," on the last line but one, interlined before the execution hereof—

H. P. HAMBLIN.
W. BAKEWELL.

STATE OF NEW YORK,
*Washington County, ss:*

Before me, the subscriber, a proper authority, personally appeared the above-named Calvin Adams, who acknowledged the foregoing instrument of writing to be his act and deed, for the purposes
113 therein set forth, desiring the same to be recorded as such in the United States Patent Office and elsewhere.

Witness my hand and seal this day of September, A. D. 1856.

NICHOLAS M'INTYRE, [L. S.]
*Justice of the Peace.*

Received and recorded September 26th, 1856.

EXHIBIT "D—*H. Sproul.*"

Whereas letters patent of the United States were granted on the 17th day of December, 1842, to John P. Sherwood, of Sandy Hill, now Fort Edward, in the county of Washington and State of New York, which letters patent were, on the 13th May, A. D. 1851, re-

issued to Calvin Adams, of Pittsburgh, in the State of Pennsylvania, now of Oak Hill, in the county of Greene and State of New York:

And whereas said Calvin Adams did, on the 16th day of September, 1856, reassign said letters patent to said John P. Sherwood:

And whereas said John P. Sherwood is about to apply to the Commissioner of Patents for an extension of said letters patent for the term of seven years from the expiration of the first term of said letters patent:

Now, therefore, these presents witness that the said John P. Sherwood, for and in consideration of the sum of six hundred and twenty dollars, to him in hand paid by the said Calvin Adams, the receipt whereof he doth hereby acknowledge, and of the further sum of three hundred and eighty dollars, to be paid by said Adams to said Sherwood in the event of the extension of said letters patent as aforesaid, hath assigned, transferred and set over, and by these presents doth assign, transfer and set over, unto the said Calvin Adams, his executors, administrators, and assigns, all the right, title, and interest which he, the said John P. Sherwood, hath or may have, as secured to him by letters patent of the United States, or to his executors or administrators, on the extension thereof for the term of seven years as aforesaid, being all the interest of said Sherwood, his executors or administrators, in and to said invention from and after the expiration of the first term of said letters patent, for and during the full
114 term of seven years thereafter, for which said letters patent may be extended. The same to be held and enjoyed by the said Calvin Adams and his legal representatives, for his and their own use, benefit and behoof, for and during the full term of seven years aforesaid, from the 17th day of December, 1856, the date of the expiration of the first term for which said letters patent were granted or reissued.

And the said John P. Sherwood, for himself, his executors, and administrators, hereby covenants and agrees, that so soon as said letters patent are extended he will, on payment to him of said further sum of three hundred and eighty dollars, or so much thereof as shall then remain unpaid, execute and deliver to said Calvin Adams, or his legal representatives, a further assurance, or release, of all his right, title, and interest in said invention and letters patent as extended.

In testimony whereof, the said John P. Sherwood hath hereunto set his hand and seal this 24th day of September, in the year 1856.

JOHN P. SHERWOOD. [L. S.]

Sealed and delivered in presence of us—the words "an extension of said," on the 12th line of first page, being written over an erasure; and the words "doth hereby," on the 15th line of first page, erased before execution—

H. P. HAMBLIN.
W. BAKEWELL.

COUNTY OF WASHINGTON,
*State of New York, ss:*

Before me, the subscriber, a justice of the peace in and for said county, personally came the within named John P. Sherwood, and

acknowledged the foregoing instrument of writing to be his act and deed, desiring the same to be recorded in the United States Patent Office and elsewhere.

Witness my hand and seal, this 24th day of September, A. D. 1856.

NICHOLAS M'INTYRE, [L. S.]
*Justice of the Peace.*

Received and recorded December 16th, 1856.

115 EXHIBIT "R 1—*H. Sproul.*"

This indenture, made this twenty-fourth day of September, in the year of our Lord one thousand eight hundred and fifty-six, between John P. Sherwood, of Fort Edward, in the county of Washington, in the State of New York, of the first part, and Livingston, Copeland & Co., a firm doing business in the city of Pittsburgh, in the State of Pennsylvania, of the second part:

Whereas letters patent of the United States were granted on the 17th December, 1842, to said John P. Sherwood for an improvement in door-locks; and whereas the said letters patent were, on the 13th May, 1851, reissued to Calvin Adams, who, by deed dated 16th September, 1856, did reassign said letters patent to said John P. Sherwood; and whereas said John P. Sherwood is about to surrender said letters patent and obtain a reissue thereof in his own name:

Now, this indenture witnesseth that the said party of the first part, for and in consideration of the sum of one dollar to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, and for other good and lawful considerations, hath assigned, sold, and set over, and by these presents doth assign, sell, and set over, unto the said Livingston, Copeland and Company, all his right, title, and interest in the said invention, as secured by said letters patent, and by the letters patent which are or may be granted on surrender of said patent as a reissue thereof; the same to be held and enjoyed by the said Livingston, Copeland and Company for their own use and behoof, and the use and behoof of their legal representatives, to the full end of the term for which said letters patent are granted, to wit, until the seventeenth day of December, A.D. 1856, as fully and entirely as the same would have been held and enjoyed by the said John P. Sherwood had this assignment and sale not been made.

In testimony whereof, the said party of the first part hath to these presents set his hand and seal the day and year first before written.

JOHN P. SHERWOOD. [L. S.]

Sealed and delivered in the presence of—the words "desirous of obtaining an interest therein," on the 11th line, being erased, and the words "of the first part," on the last line but one, being interlined before the execution hereof.—

H. P. HAMBLIN.
W. BAKEWELL.

116 STATE OF NEW YORK,
*Washington County*, ss :

Before me, the subscriber, a proper authority, personally appeared the above named, who acknowledged the foregoing instrument of writing to be his act and deed, for the purpose therein set forth, desiring the same to be recorded as such in the United States Patent Office and elsewhere.

Witness my hand and seal this 24th day of September, A. D. 1856.

NICHOLAS M'INTYRE,
*Justice of the Peace.*

EXHIBIT "T—*H. Sproul.*"

*The United States Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed is a true copy of all papers found on file and record in the application of John P. Sherwood for a second reissue of letters patent granted to him December 17th, 1842, in accordance with which application letters patent were reissued to said Sherwood, October 7th, 1856. The annexed copies are exclusively of the patent as reissued.

{ Seal of the Patent Office. } In testimony whereof, I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this 7th day of October, in the year of our Lord 1858, and of the independence of the United States the eighty-third.

J. HOLT.

*To the Commissioner of Patents:*

The petition of John P. Sherwood, of Fort Edward, county of Washington, and State of New York, respectfully represents:

That he is the original and first inventor of an improvement in door-locks, for which letters patent were granted to him on the 17th December, 1842, which letters patent were surrendered on account of a defective specification, and reissued to Calvin Adams on the 13th day of May, 1851:

117 That the said letters patent were reassigned to me by the said Calvin Adams, on the 16th day of September, 1856:

That he now believes that the same is inoperative and invalid by reason of a defective specification, which defect has arisen from inadvertence and mistake; he therefore prays that he may be allowed to surrender the same, and requests that new letters patent may issue to him for the same invention, for the residue of the period for which the original patent was granted, under the amended specification herewith presented, he having paid fifteen dollars into the treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

He further prays that A. B. Stoughton may be recognized as his attorney in the matter, hereby authorizing him, or his accredited

agent, to alter or amend the specification or claim as he may deem advisable, and transact all business with the Patent Office in relation thereto.

JOHN P. SHERWOOD.

COUNTY OF WASHINGTON,
*State of New York, ss:*

On this 24th day of September, 1856, before the subscriber, a justice of the peace, personally appeared the within named John P. Sherwood, and made solemn oath that he verily believes that, by reason of an insufficient or defective specification, his aforesaid patent is not fully valid and available to him, and that the said error has arisen from inadvertence, accident or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge or belief.

NICHOLAS M'INTYRE,
*Justice of the Peace.*

*To all whom it may concern:*

Be it known that John P. Sherwood, of Sandy Hill, Washington county, and State of New York, has contrived and invented some new and useful improvements not known or used before, in the construction and manufacturing of door-locks or cased fastenings, in which the movements are contained between the sides of the case, and the following is an exact and full description thereof, reference being had to the accompanying drawing, which forms part of this specification:

118 Every part of my fastening may be made of cast iron, and for most parts it is the cheapest material. My first improvement is in the case E, figure 6, which I made double faced; each face projects over the sides and back end. The front end has no lip or projection on, like ordinary iron cases, but its edges are plain and covered by the two face plates. The aperture for the bolt, in the front end of said lock, is as wide as said end, so that the moulder may dispense with setting a core, and a stay, marked S, (with the screw-holes through it,) from $\frac{3}{4}$ to $1\frac{1}{2}$ inch wide and from $1\frac{1}{2}$ to 3 inches long, rises on the lower front corner of each face, protecting the bolt-hole. This improvement facilitates and cheapens the casting of a case, by lowering the sides and ends and doing away with the setting of a core. It also fits every outside case, for either a right or left hand door, without turning the lock or latch upside down, and it renders the lock stronger and more durable. A glance at the drawing shows its peculiarities and their use. The inside of the case is cast with common fixtures, such as friction plates, studs and braces, to keep the bolt and other detached pieces in their respective places.

My second improvement is in making the bolt with notches, one on its lower and one exactly similar on its upper edge, so that, in connection with the vibrating or connecting bar A, a horizontal motion is given to the bolt, and also adapts it, by simple reversion, to a right or left hand door. Each is cut perpendicularly and extends through one-third part of the bolt, reducing the bolt in the centre, between the two notches, to one-third of its original size.

Figure 1 shows the bolt with its two similar and opposite notches, *a a*, its back end *b* forked so that it may pass a screw, and its front end *c* beveled, to make one bolt answer for both lock and latch.

Figure 2 exhibits the vibrating or connecting bar A, for moving the bolt, which is a very irregular shape, and nearly fills the upper half of the case. Its lower front corner *d*, projecting downward, is made to fit in the notch *a*, in the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner, *e* shows a small hole for a screw, on which it vibrates, and near by *f* shows a large one for the handle. Nearly all of the back end of this bar is made quite thin, as at $A^2$, leaving space between it and the case on one side for one sliding car or impelling weight, and on the other side for two sliding cars hereinafter described. On each side of this bar are three studs, *g*, *h*, *i*, in height equal to the original thickness of the bar, and a curved key-guard K, not quite as high as the studs which shield the locking car. Stud *g* is at the lower
119 back corner, *h* near the centre, and *i* above and back of *h*. Each stud on one side has a corresponding stud, similar and similarly situated, on the opposite side; *h* and *i* form an inclined track or way, *i* being placed obliquely above *h* toward the front end of the case; and as the corresponding studs on the opposite side of the bar form a similar track or way, we have double inclined track or way for the safety cars (hereinafter described) to pass up and down. A little above the corner stud *g* a notch *l* opens upon the back end of the bar, toward a point below the centre stud *h*, a passage way for the stud *m*, of the double action locking car B, hereinafter described.

Figure 3 represents the double action locking car B, of which the exact form can only be learned from a model or drawing. It is a thin plate with a stud *m* near one corner, on one side, and a much shorter stud directly opposite, on the other side. These studs add power to this car, and connect it with safety cars G $G^2$, hereinafter described, in a way that holds the three cars fast together when locked. The large notch *n* gives room for the double action locking car B, passing the stud *h* of the connecting bar A. The sides of this notch *n* are in part horizontal, and in another oblique or inclined. In one part of its movement on the studs *h* and *g* of said connecting bar it is horizontal, and in another inclined. The studs *h* and *g* of the vibrating or connecting bar A thus becomes, at different periods, a horizontal and an inclined track or way for the locking car B to move upon. The small notch O admits the key (figure 5) by which the car is moved. An acute angular projection *p*, near the stud *n*, catches under a stud D on the side of the case E, when locked (as seen in figure 8,) and fastened to the car. The locking is effected by a compound and backward movement of this car B, which is new and peculiar to my lock.

Another car, exactly like this, and with similar action, may be attached to the other side of the connecting bar, if greater security be desired. G (figures 4 and 7) shows the shape of the two safety cars, which are exactly alike, except that one, $G^2$, (figure 7,) is twice as thick as the other, and the thicker one has a groove H over the key-guard *k* of the connecting bar A. A notch *g* in each of these cars G $G^2$, receives one of the studs *m* of the locking car B, when unlocked,

as seen in figure 6, and *r* is a long opening for the studs *h* and *i* of the connecting bar.

In size, one of these cars G is nearly twice as large as the locking car B. One is on each side of the connecting bar A. The double action locking car lies in a cavity of the connecting bar and under the thinnest safety car $G^2$. The safety car always moves on the double inclined track or way before described, and in a direction opposite to that of the locking car. They add strength and stability to the locking car, and prevent the locks being picked.

In the process of locking, the key is turned back instead of forward, as in other locks. The safety cars rise simultaneously to their utmost height. The double action locking car then moves horizontally a short distance, after which it descends toward the back end of the case upon its inclined track or way formed by studs *h* and *g*, the safety cars, at the same moment, descending toward the front end of the case on the double inclined track or way formed by studs *h* and *i*, before described, until each reaches its lowest point, and there all three combine in firmly holding both the vibrating or connecting bar and bolt fast, as represented in figure 8, which shows the bolt as locked, the projection *p* being locked under stud D, and the safety car G having dropped down behind stud *m*, which locks the whole together. To unlock the bolt, the safety cars G must be first raised. Figure 5 represents the form of the key.

In locking, the aperture *v v* of the key passes around the guard *k* of the connecting bar A, and the bit *u* raises the safety car $G^2$, while, at the same time, the bit *t* entering the notch O of the double acting car, strikes the back side of the notch and moves the locking car B, at first horizontally, and then in a descending backward oblique or inclined direction, until the projection of the car becomes fast under and against stud D, and holds the connecting bar A and bolt *c* stationary. In unlocking, a reverse movement is necessary, first raising the safety cars as before stated.

What I claim as my invention, and for which I desire an exclusive right by letters patent, is, making the cases of door-locks and latches double faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described.

I also claim the peculiar construction and double action (upon an inclined and horizontal track or way) of the locking car B, as hereinbefore described, and the combination of the locking car B and safety cars G $G^2$ with one another, and with the connecting or vibrating bar and bolt A, as within described, so as to fasten the bolt *c* securely and prevent its being picked.

I also claim so constructing the bolt as hereinbefore described, that by simply turning it over in the lock case it is adapted to a right or left hand door.

JOHN P. SHERWOOD.

Witnesses :
H. P. HAMBLIN.
W. BAKEWELL.

121 383, reissue, Sept. 2. * *

No: 401. Foreman, John P. Sherwood ass'or to Calvin Adams, ass'or to J. P. Sherwood, of Sandy Hill, N. Y.
Of Fort Edward, county of Washington, State of New York.

*Door-locks.*

Rec'd Septr. 26, 1856.
Petition, — —
Affidavit, — —
Specification, — —
2 Drawings, — —
Model old pat.
Cert. dep.
1 Cash $15, Sept'r 26, 1856.
Examined Sept. 27, '56, E. Foreman.
2 Issue Shugert, Sept'r 29, 1856.
4 Patented Dec. 17, 1842. *
Reissued 13th May, 1851.
Re-reissued Oct. 7, 1856. *
Recorded vol. page
Assignment fr On to Sherwood on record.
D.

A. B. STOUGHTON,
*Wash'n, D. C.*

122 EXHIBIT "S—*H. Sproul.*"

*The United States Patent Office to all persons to whom these presents shall come, greeting:*

This is to certify that the annexed are true copies from the files of this office.

In testimony whereof, I, Joseph Holt, Commissioner of Patents, { Seal of the Patent Office. } have caused the seal of the Patent Office to be hereunto affixed this 26th day of June, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States the eighty-second.

J. HOLT.

*To the Commissioner of Patents:*

The petition of John P. Sherwood, of Fort Edward, in the county of Washington and State of New York, respectfully represents: That your petitioner did obtain letters patent of the United States on the 17th day of December, 1842, for an improvement in door-locks, invented by himself, which letters patent were surrendered and reissued to Calvin Adams on the 13th day of May, 1851; that the said Calvin Adams, by instrument of writing under his hand and seal, dated the 16th day of September, 1856, reassigned said letters patent to your petitioner, and which said letters patent were surrendered and reissued to your petitioner on the 7th day of October, 1856. And further, the said invention was new at the time of granting said original letters

patent; that it is very useful, and highly valuable and important to the public; and that your petitioner, having used due diligence to introduce his invention into general use, has, without neglect or fault on his part, failed to obtain from the use and sale of his invention a reasonable remuneration for the time, ingenuity, and expense bestowed upon the same, and the introduction thereof into use.

He therefore prays that the said letters patent may be renewed and extended for the term of seven years from and after the expiration of the first term, he having paid forty dollars into the treasury, and otherwise complied with the provisions of the act of Congress in such cases made and provided; and he further requests that A. B. Stoughton, of Washington city, and William Bakewell, of Pittsburgh, or either of them, may be recognized as his attorneys or attorney, in the matter of this application for an extension, hereby authorizing
123 them, or either of them, to transact all business with the Patent Office in relation thereto, as fully, to all intents and purposes, as he himself could do.

JOHN P. SHERWOOD.

*To the Commissioner of Patents:*

I, John P. Sherwood, of Fort Edward, in the county of Washington, in the State of New York, having applied by petition to the Commissioner of Patents for an extension of letters patent of the United States for an improvement in door-locks, dated the 17th of December, 1842, which letters patent were in the year 1851 reissued to Calvin Adams, of Pittsburgh, in the State of Pennsylvania, now of Oak Hill, in the county of Greene, and State of New York, and which having been reassigned by Calvin Adams to me on the 16th day of September, 1856, and reissued on the 7th day of October, 1856, do hereby make the following statement of my receipts and expenditures in the matter of my said invention, and of the ascertained value of said invention:

| | |
|---|---|
| I was two years engaged in perfecting my invention; the value of my time and labor during that period is worth, at least, | $1,000 |
| I paid the office fees for my patent | 30 |
| I paid also agents' fees, preparing specifications, &c. | 150 |
| And expended in experimenting in manufacturing the sum of | 50 |
| My actual outlay, therefore, was | $1,230 |

The only renumeration I received for my ingenuity, labor, and expenses, excepting the amount paid me by James Stevenson, as hereinafter set forth, was the amount for which I sold my patent to Calvin Adams, to wit, the sum of two hundred dollars. The sum named in my assignment to Calvin Adams being nominal, as the amount I actually received of him for the assignment of my remaining interest in said patent was but two hundred dollars, as stated. The sum of one thousand dollars, mentioned in my assignment to James Stevenson as the consideration therefor, on the 16th day of

June, A. D. 1843, was not actually received by me, but was also nominal; the said James Stevenson, however, paid the expenses of procuring said patent, to wit, the sum of one hundred and fifty dollars, as near as I can ascertain or recollect, before stated in my
124 account, and in consideration thereof I assigned to him one-third of my patent.

The foregoing is a correct statement of my receipts and expenditures, which exhibits an actual loss of over eight hundred dollars on the existing patent. The sum of two hundred dollars, received of Calvin Adams about five years since, is, therefore, all the profits or advantage which I have reaped from my patent, excepting from the prospect of an extension thereof for seven years from the date of expiration of the first term, from which I should receive a remuneration for my trouble, expense, and ingenuity, the said Calvin Adams having paid me the sum of five hundred dollars as a partial payment for a purchase of my patent right, (if the same is extended,) on the eighth day of October, 1851, [1855,] and since that date the further sum of one hundred and twenty dollars.

Nor has the failure on my part to receive from the sale and use of my invention a reasonable renumeration for the time, ingenuity, and expense bestowed thereon been in any way owing to any neglect or fault on my part. My invention, to be profitable, could not be carried into successful operation without the expenditure of a large amount of capital, and the establishment of an extensive manufactory, and the purchase of costly machinery. As I could not command the necessary capital, nor induce capitalists to undertake the manufacture for my benefit, I was compelled either to abandon my invention altogether, or to allow the patent to pass from me into the hands of those who would and could introduce it into general use for a very trifling remuneration. I therefore was compelled to choose the latter alternative or lose all I had expended, and the result has been that during the five years that it has been in use it has proved a very useful, important, and valuable invention, and, just as the patent is about to expire, my invention has become profitable, and would prove remunerative to me. I have done all that lay in my power, and have sacrificed heretofore a valuable invention for a very trifling sum in order to introduce it into general use. I therefore ask, as the only means whereby I can be paid for my loss of time and money, and rewarded for my ingenuity, that my petition be granted, and the patent extended for seven years from the expiration of the present term.

I would further state that I firmly believe, and the experience of the use of my invention during the five years that it has been in use fully warrants the statement, that my invention is a very valuable one and would prove highly remunerative.

JOHN P. SHERWOOD.

125 COUNTY OF WASHINGTON,
*State of New York, ss:*

Before me, the subscriber, a justice of the peace in and for said county, personally came the above named John P. Sherwood, and

made solemn oath that the facts set forth in the foregoing statement are correct and true.

In testimony whereof, I have hereunto set my hand this ninth day of October, A. D. 1856.

NICHOLAS M'INTYRE,
*Justice of the Peace.*

EXHIBIT "A,—*W. B. Webb, U. S. Com'r.*"

FORT EDWARD, *October 9th*, 1856.

A. B. STOUGHTON, Esq: Yours of October 7th, 1856, at hand. Inclosed you will find the paper you spoke of, executed by the justice.

Yours, &c.,

H. P. HAMBLIN.

EXHIBIT "B,—*W. B. Webb, U. S. Com'r.*"

Received of W. Bakewell fifty-seven dollars, it being for the reissue and extension fees, and for recording an assignment in the matter of Sherwood's patent for a door-lock.

A. B. STOUGHTON.

*September 26th*, 1856,
WASHINGTON CITY, D. C.

EXHIBIT "C—*H. Sproul.*"

*The United States Patent Office to all persons to whom these present shall come, greeting:*

This is to certify that the annexed is a true copy from the records of the Patent Office.

In testimony whereof, I, Joseph Holt Commissioner of Patents, have caused the seal of the Patent Office to be [SEAL.] hereunto affixed this 30th day of November, in the year one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second.

J. HOLT.

126 Whereas letters patent of the United States were granted 17th day of December, 1842, to John P. Sherwood, of Sandy Hill, (now of Fort Edward,) Washington county, State of New York, for improvement in door-locks:

And whereas said letters patent were extended by the Commissioner of Patents for the term of seven years from the expiration of first term of said letters patent;

And whereas, said John P. Sherwood did, on the 24th day of September, 1856, assign to Calvin Adams, of Oak Hill, Greene county, State of New York, all his right, title, and interest in the extension of said letters patent:

Now, this indenture witnesseth that I, the said Calvin Adams, for and in consideration of the sum of two thousand dollars, to me paid in hand, the receipt whereof is hereby acknowledged, have assigned,

sold, and set over, and do hereby assign, sell, and set over, unto the firm of Livingston, Copeland & Co., of the city of Pittsburg, State of Pennsylvania, all right, title and interest which I have in said extended letters patent, the same to be held and enjoyed by the said Livingston, Copeland & Co., for their own use and behoof, and for the use and behoof of their legal representatives, to the full end of the term for which said letters patent were extended, as fully and entirely as the same would have been held and enjoyed by me had the assignment and sale not been made.

In testimony whereof, I hereunto set my hand and affix my seal the third day of January, 1857.

CALVIN ADAMS. [L. S.]

In presence of—
AARON GIFFORD.
S. J. ADAMS.

Personally, before me, a justice of the peace of Greene county, State of New York, appeared the above named Calvin Adams, and acknowledged that the within assignment was executed by him for the purpose therein set forth.

WM. PADDOCK,
*Justice of the Peace.*

OAK HILL, GREENE CO., N. Y., *January 3d*, 1857.

Received and recorded January 12, 1857, in Liber C 4, page 313, of Transfer of Patents.

Exd. C. E. U.

127 In the circuit court of the United States for the western district of Pennsylvania.

LIVINGSTON, COPELAND & Co.
*vs.*
JONES, WALLINGFORD & Co.
} No. 1, May term, 1858. In equity.

*Respondent's testimony.*

Chauncey Brady, sworn:

Q. 1. What is your name, age, residence, and present occupation?

A. Chauncey Brady; age, 45 years; reside in New York, and am assistant sexton of St. Mark's church, New York.

Q. 2. How long have you known of the locks which are now of the gate of the yard of that church being on there, and in use?

A. I have been there thirteen years last March, and they were there when I went there.

Q. 3. State whether those gates and locks are in a public place, and whether the congregation of the church pass through the gates, or any of them to get to the church?

A. The three front gates are in a public place, and have to be opened every time there is church there, and the congregation have to go through them whenever there is church.

Q. 4. State whether or not there has been church held there regularly during the time you have been there?

A. Yes, sir; twice a day on Sundays.

Q. 5. State whether or not you have looked at those locks in company with Mr. Bull and Mr. Hile, now present, and when last?

A. I have, and we examined them last evening about five o'clock.

Q. 6. Who was engaged in the place you now hold when you went there?

A. Joseph Robinson.

128 Q. 7. Is the escutcheon broken off either of those locks; and if so, how did it come off, and when?

A. It was broken off the centre gate lock when I came there.

CHAUNCEY BRADY.

Sworn to before me this 29th day of October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

The whole of this testimony objected to by counsel for complainant for irrelevancy.

R E. STILWELL,
*U. S. Commissioner.*

Joseph Robinson, sworn:

Q. 1. What is your age, residence, occupation, and have you at any time, and when, been sexton of St. Mark's church in the city of New York?

A. I am 49 years of age; reside in the city of New York, corner of —— and Mulberry streets; I am a sailmaker; I was about 14, 15, 16, or 17 years ago deputy sexton of St. Mark's church.

Q. 2. Who succeeded you and took your place when you left?

A. Chauncey Brooks, the gentleman who was just examined.

Q. 3. How long had you been assistant sexton of that church when Mr. Brady took your place?

A. Five years and a half.

Q. 4. Have you recently looked at the locks on the gates of that church-yard in company with the two gentlemen, Mr. Bull Mr. Hile, now present; and if yea, when last?

A. I looked at them in company with them on last evening about five o'clock.

Q. 5. Were these locks in use on those gates when you were assistant sexton there; and if yea, during what part of the time were they on those gates while you were there?

A. To the best of my knowledge they were, and they were on when I first went there, and I left them there.

Q. 6. Do you recollect of the escutcheon being broken off of one of them? And if yea, state if you know when and how it was done, and which one of the locks it was broken off of.

A. I do; I broke it off with a hammer while breaking the ice off; it was on the day when President Tyler was married; he was married in

that church, and it was while I was deputy sexton there; it was broken off of the lock of the middle gate.

JOSEPH ROBINSON.

Sworn to before me this 27th day of October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

129 The whole of this testimony objected to in time by the counsel for the complainant, as inadmissible under the pleadings and irrelevant.

R. E. STILWELL,
*U. S. Commissioner.*

Sarah Huring, sworn:

Q. 1. What is your age; and have you been, at any time, and how long, engaged about the City Hall in the city of New York, and has your mother been engaged there?

A. My age is 28 years; I have been engaged there seven years, and my mother has been engaged there 29 years, and I was with her all the time.

Q. 2. How long do you remember of the locks being on the gates of the basement of that City Hall, which are now on those gates?

A. I was about nine years old when I first remember of their being on; they were put on before that.

Q. 3. Please state where those gates are situated in that basement?

A. There are two at the foot of the stairway, and two that divide the hall or passage way through the basement, and another right at the foot of the stairs which lead into a little room; this is under the stairway.

Q. 4. State what opportunities you have had of seeing those locks, and knowing they were there during the time since you say you first remember of their being there?

A. I used to play on the gates and ulocked them very often.

Q. 5. Who kept the keys of the locks on those gates?

A. Mr. Skelhorn, and my mother had one in her possession.

Q. 6. State whether Mr. Bull and Mr. Hile, the two gentlemen now present, have recently looked at those locks in your presence, and when?

A. They did last evening, about four o'clock.

Q. 7. Do you know what Mr. Skelhorn was engaged at, when you say he kept some of the keys of those locks?

A. He was keeper of the City Hall.

Q. 8. Do you remember about what time he left?

A. Between 17 and 18 years ago.

Q. 9. Were those locks on those gates at the time he left?

A. They were.

SARAH HURING.

Sworn to before me this 27th day of October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

This testimony objected to by counsel for complainant in time as inadmissible under the pleadings and irrelevant.

R. E. STILWELL,
*U. S. Commissioner.*

John L. Roome, sworn:

Q. 1. What is your age, residence, and occupation?

130 A. I am forty-two years of age, reside in New York city, and am an accountant.

Q. 2. Have you been engaged at any time, and if yea, from what time to what time, and in what capacity in the New York hospital situated on Broadway in the city of New York?

A. I was employed there from December, 1840, to May 1845, as clerk, and from June 1st to November, 1855, as superintendent.

Q. 3. Have you recently examined the locks which are on the gates of the front entrance of that hospital in company with the gentlemen present, Mr. Bull and Mr. Hile?

A. I have.

Q. 4. How many of those locks are there on the gates of that front entrance, and from what street is that front entrance?

A. There are four; the front entrance is on Broadway.

Q. 5. How long have you known those locks to be in use on those gates?

A. Positively for the whole time I have mentioned as being connected with the institution, and I believe they are the same on now that were on when I was there; I can't swear positively, but have no reason to doubt it; and if not, they are just like them.

Q. 6. When you say from the time you have mentioned as being connected with the institution, from what time do you mean?

A. From December, 1840.

Q. 8. State how those locks are situated as to publicity or otherwise.

A. They are on iron gates, and in a very public place. They are all out of doors, and one of them is on the gate on Broadway.

JOHN L. ROOME.

Sworn to before me this 29th day of October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

The whole of this testimony objected to in time by the counsel for the complainants as inadmissible under the pleadings and irrelevant.

R. E. STILWELL,
*U. S. Commissioner.*

Patrick McCaffrey, sworn:

Q. 1. What is your age, residence, and occupation?

A. About 45 years of age, reside in New York city, and am porter in the custom-house in the city of New York, and have been a porter ever since the custom-house was built, or nearly ever since, and I was present during the time the custom-house was being built.

Q. 2. Do you know of locks being on the outer gates or doors of the custom-house, and how many are there, and how long have you known them to be in use on those gates?

131 A. I do, and have used one of the locks myself daily for about 15 years. There are four locks, two on each entrance.

Q. 3. You say in your last answer that you have used one of those locks for about 15 years Please state whether that lock has been on there ever since the custom-house was completed.

A. Yes, it has. It has not been disturbed. The same lock that was put on is on yet.

Q. 4. State whether you have been present when Mr. Bull has looked at that lock.

A. Yes.

Q. 5. On which of the gates of the basement of the custom-house is this lock which you say has been on ever since the custom-house was completed?

A. On the corner of Wall and Nassau streets, and fronting Nassau street.

PATRICK McCAFFREY.

Sworn to before me this 27th October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

This testimony objected to in time by the counsel for the complainants as inadmissible under the pleadings and irrelevant.

R. E. STILWELL,
*U. S. Commissioner.*

Amzi Hile, sworn:

Q. 1. What is your age, residence, and occupation?

A. I am 36 years old; reside in 222 Jay street, Brooklyn, and am an architect Before I became an architect I worked seven years at the carpentering business.

Q. 2. Have you examined the locks on the basement gates on the custom-house in the city of New York.

A. I examined the lock on the corner of Nassau and Wall street, fronting on Nassau, on the basement gate.

Q. 3. Have you made a model of that lock showing the construction and form of the case? and if so, produce it.

A. I have, and now produce it, and it is marked "Exhibit Custom House."

Q. 4. State how the sides of the cases are constructed with reference to the rims.

A. The sides of the lock lap over the rims as shown in this model by the gauge lines, (witness referring to the model marked "Exhibit Custom H.")

Q. 5. Of what material is the case of the lock made?

A. Iron.

132 Q. 6. Explain how the rims of that lock are made, that is, whether they are pieces separate from the sides.

A. The rim of the top and bottom of the lock are separate pieces of iron thicker than the sides of the lock, or side-plates. One of the side-plates is bent at each end of the lock so as to form the rim at each end.

Q. 7. State whether that lock is adapted either to a right or left hand door.

A. As far as the side-plates are concerned it is, the only thing to be changed would be the beveled latch-bolt, so as to avoid throwing the key-hole upside down.

Q. 8. What do you mean by the latch-bolt being required to be changed so as to prevent the key-hole from being turned upside down?

A. The bevel would be required to be reversed on the latch-bolt so as to strike the keeper in a proper manner.

Q. 9. State whether the two sides of that lock are finished alike or differently.

A. Both are finished with a perfect face, but more rivets shown on one side than the other.

Q. 10. Does the model show the rivets?

A. It does.

Q. 11. Were you present at the examination of Sarah Uring this morning?

A. I was.

Q. 12. Have you examined the locks on the gates in the city hall in the basement, to which she referred, and have you made a model or models, if any, and of which of those locks? and if yea, please produce them.

A. I have, and have made models of two of them, and now produce them, and they are marked "Exhibit City Hall," No. 1 and No. 2. No. 1 is on the westerly gate in the passage-way of the basement in the city hall. No. 2 is on the gate at the bottom of the eastern flight of stairs leading from basement to the 1st story.

Q. 13. How are these locks constructed with reference to having double or single faces, and how are the sides constructed with reference to the rims of the locks?

A. They have double faces, the face lapping over the rims, with the exception that in No. 1, one of the face-plates is bent to form the rim at one end of the lock.

Q. 14. Is there anything, and if yea, what, in the models to show the edges of the side or face plates which lap over the rims?

A. They are shown by gauge lines or marks.

Q. 15. State whether those locks are adapted to both right and left hand doors.

A. They are.

133 Q. 16. Did you hear the testimony of John L. Roome given at his examination this morning, with reference to locks on the gates at the New York city hospital?

A. I did.

Q. 17. Have you examined those locks in company with said Roome, and have you made models of any of them, and if yea, which of them? and please produce such models?

A. I have examined them in company with Roome, and have made models of two of them, and now produce them, and they are marked "New York city hospital, No. 1 and No 2." No. 1 is a model of the lock on the gate of the front entrance on Broadway, and No. 2 is a model of the lock on the side gate at the keeper's lodge, which is the second gate you come to in going in from Broadway.

Q. 18. How are the locks on the gates of the hospital referred to in your last answer, as to being double-faced, and as to the manner of uniting the rims and face-plates?

A. They are double-faced locks, constructed in such a manner as to be used on a right or left hand gate; the face-plates lapping entirely over the rims, except at each end. One of the face-plates of each lock is bent so as to form the rims; the rims, top and bottoms, are in separate pieces. The gauge marks or lines on the models show the manner in which the cases are put together.

Q. 19. To change those locks from a right-hand to a left-hand door, or from a left-hand to a right-hand door, would they or not require any alteration—I mean changing them without turning the key-hole upside down?

A. They would not.

Q. 20. Were you present, and did you hear the testimony of Chauncey Brady and Joseph Robinson given this morning, in reference to locks on the gates of the yard of St. Mark's church in the city of New York?

A. I was, and heard it.

Q. 21. Have you examined those locks in company with said Brady and Robinson, and have you made a model of any, and which of them? and if yea, produce it.

A. I have examined them in company with them, and made a model of one of the locks, and now produce it, marked "St. Mark's church." This is a model of the lock on the centre gate in front of said church.

Q. 22. How did you find that lock, and what is shown in the model with reference to the escutcheon?

A. I found that the drop or the escutcheon, as Mr. Robinson called it, was broken off, as exhibited in this model.

Q. 23. What do the gauge marks on the edges of that model represent?

A. They represent the joints where the case is put together.

134 Q. 24. State what alteration, if any, would be required in that lock to change it from a right-hand to a left-hand door, and *vice versa*?

A. I should say none.

Q. 25. How about the escutcheon plate?

A. The escutcheon plate, as far as I am able to say, was merely put there as an ornament. The drop which is broken off is used for the same purpose, but they are generally used to protect key-holes from the weather, and is as much needed on one side as the other on an outer gate.

Q. 26. Of what material are the cases made, of the city hall locks, the hospital locks, and the St. Mark's locks, before referred to?

A. They are made of iron.

(Counsel for complainant objects to the foregoing testimony of the

witness just examined as inadmissible under the pleadings and irrelevant, and proceeds to cross-examine him.)

Q. 27. Please to examine exhibit marked Custom-House, and state whether there is any other difference between the two faces of that lock than that there are more rivets on one side than on the other?

A. There are screw-heads on one side which are not on the other. Those screws pass through the lock, and the points show on the other plate.

Q. 28. Please state which side or face of the lock is placed next to the gate—that on which the screw-heads are or the other?

A. That on which the screw-heads are shown is placed next to the gate.

Q. 29. Does the inside of the face or plate of this lock come off when the screws referred to in your answer to the first cross-interrogatory, are removed, and would not that expose the works of the lock?

A. My opinion is that it would not, because, from my knowledge of mechanics, I should place screws nearer the corner to hold so thin a plate.

Q. 30. How, then, would you remove the inside face or plate of the lock?

A. Well, I should take out those two screws of course, and I presume there are other rivets which I was unable to see, which would have to be removed to take off the face of the lock.

Q. 31. Please to state why you could not see those other screws, which you suppose to be on that side or face of the lock on which the screw-heads seen in your model marked "Custom-House" are shown.

A. The lock is planted against a heavy cast-iron ornament, with small openings through the ornament, and the small space between the ornament and the lock is filled up with paint and dust so as nearly to obscure the whole face of the lock next the gate; and I was obliged to feel in through the hole of the ornament with the point of a knife blade, to find these two screw-heads, and found them with much difficulty.

135 Q. 32. Against what kind of a gate is this lock placed? Is the lock placed on the street side of the gate, or on the inside of the gate?

A. Against an iron gate, and the lock is placed on the inside of the gate. The side of the lock which has the screw-heads on it face towards the street when the gate is shut.

Q. 33. Did you examine the inside of this lock marked Custom-House? Do you know how its works are constructed and arranged, and does this model marked Custom-House show the internal arrangement and construction of the lock?

A. I did not examine the inside of this lock. I do not know how its works are constructed and arranged. This model does not show the internal arrangement and construction of the lock.

Q. 34. Please to examine the model of lock marked City Hall No. 1, and state which face or plate of the lock is the one which is removed to get at the works of the locks, whether the face that has the screw-heads on it, or the other.

A. The one which has the screw-heads on it, I presume.

Q. 35. Please to state which side or face of that lock was turned next to the gate on which you found it.

A. The side where there are no screw-heads; if my memory serves me right, that is the way it is.

Q. 36. State whether you examined the internal arrangement and construction of that lock, and whether the model shows the internal arrangement and construction of that lock.

A. The only examination I made was by looking in the key-hole, and saw there was a centre ward in the lock, which is represented in the model.

Q. 37. Did you make all the models or exhibits of locks referred to in your examination in chief? State whether any of the original locks from which these models were made have latch-bolts, excepting the custom-house lock.

A. I made them all, and none of them had latch-bolts but the custom-house lock.

Q. 38. Did you examine the interior construction and arrangements of any of these locks further than you could see through the key-hole?

A. That is the only examination I made of the interior construction of any of these locks.

*Direct resumed by Mr. Gifford.*

Q. 39. In reference to the city hall lock, a model of which is marked "City Hall No. 1," would it make any difference, so far as the appearance of the finish of the case and the practical operation of the lock is concerned, which side is placed next to the gate or door?

A. Not the least.

136 Q. 40. Are there any screws or screw-heads in the face-plates of the city hall lock of which the model is marked "City Hall No. 2?"

Q. There are none.

*Cross resumed.*

Q. 41. Might there not be some screws or screw-heads on the side of the lock the model of which is marked "City Hall No. 2," which is turned next to the gate on which it is fastened, which might be concealed from your view by the gate?

A. The only position of that face of the lock which cannot be seen is a strip about one inch wide at each end; there might possibly be, but it is highly improbable that there are, any screws in those narrow strips.

Q. 42. Might there not be some screws or screw-heads on the sides or face of the other locks referred to in your examination in chief concealed from your view by the gate on which the lock was fastened?

A. There might possibly have been.

*Direct resumed.*

Q. 43. State whether or not these two locks on the gates of the city hall, like exhibit "City Hall No. 2," and whether one was on a right-hand gate and the other on a left-hand gate, and whether that gave

you an opportunity of seeing both sides of that kind of lock, and whether there were any screw-heads on either side.

(Objected to by counsel for complainants.)

A. So far as my memory serves me—I won't be positive about—there is another lock the same as this, except that the opposite side from what this one is was placed against the gate, and I examined both of these locks very carefully, so far as the surfaces could be seen, and could detect no signs of screw-heads or any part of either.

Q. 44. What do you mean in your last answer by opposite side?

A. I mean that one is placed on a right-hand and the other on a left-hand gate.

(Counsel for complainants objects to the whole of this testimony for irrelevancy.)

AMZI HILL.

Sworn to before me this 27th October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

S. S. Day sworn:

Q. 1. What is your age, residence, and occupation?

A. I am 59 years of age; reside in New York city; and am a lock manufacturer.

Q. 2. Did you make the locks for the gates of the custom-house in the city of New York, and when?

137 A. I made all the locks on the custom-house, and those four gate locks were made and delivered August 24th, 1840.

Q. 3. Please state whether model marked Exhibit Custom-House, and now shown you, represents the outside of those locks.

A. As far as I can judge, seeing this model here, and the lock being on the gate near Wall street, and having seen it within an hour, I should think this model a good representation.

Q. 4. Were those locks adapted, so far as the cases were concerned, for both right-hand and left-hand gates or doors?

A. It could be used for either by removing the bevel of this latch.

Q. 5 Explain what you mean by removing the bevel of the latch.

A. I mean that the bevel of this latch should be reversed.

Q. 6. Do you mean by removing the bevel of this latch, that in case the lock of which "Exhibit Custom-House" is a model, were put upon a left-hand door, it should have the bevel of the latch in a different or the same direction in which it now is?

(Objected to as leading.)

A. This is right for a left-hand lock.

Q. 7. Then which way do you mean the bevel of the latch should be to make that model suitable for a right hand lock?

A. Exactly the reverse.

(Counsel for complainant objects to the foregoing testimony of this witness just examined, as inadmissible, under the pleadings and irrelevant, and proceeds to cross-examine him.)

Q. 8. Do you manufacture or have you manufactured only locks similar to model marked "Exhibit Custom-House," which can be used

for a right or left hand door or gates, without alteration of the latch bolt?

A. No sir.

Q. 9. When you spoke, in answer to 4th direct interrogatory, of removing the bevel of the latch-bolt, did you mean that the latch-bolt of your lock, and of the lock which is the original of model marked "Exhibit Custom-House," was capable of being reversed in the lock?

A. I meant to say in making a lock left-handed, I should put the bevel like this model custom-house, and if I should make a right-hand lock, I should put a reverse bevel latch. Made as that, was the latch-bolt would not be capable of being turned over to reverse the bevel, it being made for a left-hand lock only. We have different patterns for right-hand locks and left-hand locks, but I could introduce a tail that would make it either hand, but we do not make them so; but if you want to know, I have made for either hand.

S. S. DAY.

Sworn to before me this 27th of October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

138 James H. Bull sworn:

Q. 1. What is your name, age, residence, and occupation?

A. My name is James H. Bull; I am 43 years of age; reside in the city of New York, and am a machinist.

Q. 2. Were you present at the examination of, and did you hear the testimony given this morning by, Chauncey Brady, Joseph Robinson, Sarah Huring, John L. Roome, and Patrick McCaffrey, in reference to the locks on the gates of the custom-house, on the gates in the basement of the city hall, on the gates of the New York hospital, and on the gates of St. Mark's church, and as to your being present at the examination of those locks?

A. I was present when their testimony was given; I heard it.

Q. 3. State whether you were present, as stated by those witnesses, at the examination of those locks, and whether you understand the manner and form in which the cases of those locks are made.

A. I was present at each and every case, as stated by said witnesses; I examined each one of those locks, and do understand the manner and form in which the cases of those locks are made.

Q. 4. How are they made with reference to cases, commencing with the custom-house?

A. The custom-house lock is made in the usual manner of making wrought-iron locks: 1st, two rims, one on the upper and the other on the lower edge of the locks; 2nd, with a plate of sheet iron extending over the edge of the rims of the lock, having a projection at each end of said sheet, which projections are bent at right angles to the face of the lock to form the face and back end of the lock, also the two projections being notched out so as to allow the ends of the rims of the lock to come over those projections, when the said projections are turned in their proper positions in the case; 3d, I find also, a plate covering the whole surface of the other side of the lock, projecting

over the edges of the rims and the ends, and forming the other face of the lock; both faces presenting great similarity of appearance. With regard to the city-hall lock, Exhibit No. 1, it is made in the same manner, excepting that each plate forming each face of the lock, as one projection, each forming the face and back end of the lock. Exhibit No. 2, of city hall, is made somewhat different, insomuch that the face end and rim of the lock appears to be made out of one piece of iron, but at right angles to form the said face end and one rim; the back end and other rim being formed in the same manner, and both ends and rims being entirely covered by two plates, forming the face of the lock. The Exhibit New York Hospital No. 2 is found precisely like the custom-house lock. Exhibit No. 1, of the New York city hospital, differs from No. 2, of same place, inasmuch as one of the face-plates fits inside of the fore and back end of the lock,
139 having a projection from each corner of said face-plate to fill the recess that would otherwise have been left at the end of the plates, forming the fore and back ends. The locks on the gates of St. Mark's churchyard are made in the same manner in which the locks on the custom-house gates are made.

Q. 5. How are all the locks referred to in your last answer as to being double-faced, and adapted by their finish and otherwise to both right-hand and left-hand doors and gates?

A. They are all double-faced, and are adapted by their finish so that they may be applied to either a right or left hand door, and have all evidently been made for the purpose of presenting both faces to view. When I speak of finish, I have reference to their cases.

Q. 6. What alterations, if any, would be required to be made in those locks in the cases, or otherwise, to adapt them to put on either a right-hand or a left-hand door, and render them as suitable to the one as the other?

A. No alterations are required in the cases of any of them. The only other alteration of any kind that would be required is that in the custom-house lock, in order to adapt that to place that upon a right-hand door, it would be necessary to reverse the bevel of the latch. In regard to St. Mark's church locks, if it was required that both faces should be precisely alike, it would be necessary to take off the escutcheon that is on one face of the lock, or put one upon the other face precisely like said escutcheon. But this alteration of the faces is not necessary to adapt it to either a right or left hand door.

Q. 7. State whether the models marked Exhibit "Custom-House," and Exhibit "City Hall," and Exhibit "New York Hospital," and Exhibit "St. Mark's Church," accurately represent the locks which their marks purport respectively, and also state how the edges of the face-plates are represented on those models.

A. They are accurate representations, every one of them. The joinings of the various pieces of the face-plates with the other parts of the lock are represented by gauge lines drawn upon the different models.

Q. 8. State if you have compared these models with the original?

A. I have.

Q. 9. Look at the certified copy of letters patent, now shown you, purporting to be a copy of a second reissue of letters patent originally

granted to John P. Sherwood for an improvement in door locks, dated the 17th day of December, 1842, and this second reissue of which dated 7th October, 1856, and marked Exhibit "A," R. E. Stilwell, U. S. commissioner, and state whether you have read and understand the contents of the same.

A. I have read them, and think I do understand them.

Q. 10. State how the locks on the custom-house, city hospital, city hall, and St. Mark's church exhibits, which have been referred
140 to, correspond with what is set forth in that copy of letters patent as the invention of John P. Sherwood, so far as the cases or faces are concerned, and so far as the faces or cases are finished, or adapted to be placed on either a right-hand door or a left-hand door?

(Objected to, because the opinions of the witness on the evidence in this case is not competent testimony.)

A. I consider that they are in exact correspondence with what is set forth in that patent, in the particular specified in the question.

Q. 11. State whether or not you find anything described in that patent respecting the cases or faces of door-locks, or door-fastenings, or door-latches, adapting them for both right-hand or left-hand doors, or for being used either side out, which are not in the locks referred to.

(Objected to, for the reasons given in the objection to the last interrogatory.)

A. I do not find anything described in that patent which I do not find in these locks in reference to what is mentioned in the question.

(All the testimony of this witness objected to as inadmissible under the pleadings and irrelevant.)

JAS. H. BULL.

Sworn to before me this 27th October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

Henry B. Renwick sworn:

Q. 1. What is your age, residence, and occupation?

A. My age about 40; reside in New York; and am a steamboat inspector.

Q. 2. What have been your opportunities and experience in judging of similarities and differences in mechanical devices and machinery, and in what capacity have you acted in such matters?

A. I was about four years and a half principal examiner in the Patent Office, and during the last five or six years been frequently examined as an expert in patent suits in the United States circuit court, and called upon to give opinions as to the substantial identity of or difference between various machines and manufactures.

Q. 3. Were you present at the examination of, and did you hear the testimony given by, Amzi Hill to-day, in reference to locks on the custom-house in the city of New York, and on the gates in the basement of the city hall, and on the gates of the yard of the New York hospital, and on the gates of the yard of St. Mark's church,
141 and have you examined the models of those locks produced by said Hill and marked as exhibits, and have you seen and ex-

amined any and which of the locks themselves from which the models are made?

A. I was present, and heard Amzi Hill's testimony. I have examined all the models, and also the locks on the custom-house, and in the basement of the city hall.

Q. 4. State how it is with the lock on the gate of the custom-house fronting on Nassau street, and near the corner of Wall, and represented by the model Exhibit Custom-House, in reference to its having a double face or case adapted to either a right-hand door or a left-hand door, and also state the same with regard to the city hall locks which you have stated you have examined; and state the same also as to the hospital locks and St. Mark's churchyard lock, which have been referred to represented by the models.

A. All the locks are what I should call double-faced locks, the faces on both sides being so finished that either may be placed outward, and the cases of all of them protect the works equally well, whichever side is turned outward, and the holes through the case admit of the locks being applied equally well with either face farthest from the door. All of the locks except that of the custom house, could be applied equally well either to a right or left hand door without turning the key-hole upside down, and that could be so applied if the bevel of the latch was reversed, or if the latch-bolt was taken out and the fastening with its case was used as a lock only. In applying the St. Mark's church lock with that side on which the escutcheon is nearest to a solid door, it would be well to make a depression for the reception of the escutcheon, or to take the escutcheon off. In the city hall, two locks the same in outward appearance and casing, are actually applied the one to a right-hand, and the other to a left-hand gate, thus showing that they are applied in the manner set forth in the question.

Q. 5. Have you read and do you understand the contents of the certified copy of the second reissue of the patent issued to John P. Sherwood, and which is marked Exhibit "A?"

A. I have read and examined it, and believe I understand its contents.

Q. 6. State how the locks on the custon-house gates, and those on the city hall, and the other locks referred to in Hile's testimony, and represented in the models, correspond with what is set forth as the invention of Sherwood, in said patent, representing their faces or cases, or being applicable to either right or left hand doors, or being double-faced or finished on both sides, or adapted and finished to have either side out.

(Objected to.)

A. All the locks enumerated in the question are double-faced, and so finished that either side may be used for the outside, so that the same lock may be placed either on a right or left hand door, without turning the key-hole upside down, and in this respect they cor-
142 respond substantially with the case described as of Sherwood's invention. This statement being qualified only by the consideration that the custom-house lock is considered as being changed as described in the previous answer. If anything, the locks named in Hile's testimony have their faces better finished for the purpose than

Sherwood's locks, which is specially described in his specification, as that has a projection or protuberance on both faces which would be objectionable, and in this respect there is want of correspondence between it and the cases of the other locks.

(Counsel for complainants objects to the whole of the testimony of this witness as inadmissible under the pleadings and irrelevant.)

HENRY B. RENWICK.

Sworn to before me this 27th October, 1858.

R. E. STILWELL,
*U. S. Commissioner.*

Adjouned *sine die.*

Andrew Patterson sworn:

Q 1. State your age, residence, and occupation.

A. My age is 33 years; my residence, Birmingham, Allegheny county; occupation, a pattern-maker.

Q. 2. Exhibits "C C," "E E," and "A A," here shown to the witness. State what those are.

A. "C C" and "EE" are commonly called dead-locks. "A A" is an ordinary lock having a latch-bolt, wherein it differs from a dead-lock.

Q. 3. State for what purpose these locks may be used.

A. They may be used for door-locks or gates, or anything else for which such locks are used.

Q. 4. State whether or not the cases of these locks are double-faced, or so finished that either side may be used for the outside.

A. The cases are all so finished that either side may be used for the outside.

Q. 5. State whether you are acquainted with the claim in Sherwood's patent, dated 7th October, 1856.

A. I am.

Q. 6. State whether the cases of these locks before you differ in principle from the claim set forth in said reissued patent, if anything.

A. I cannot conceive of any difference in anything, they being so constructed that either side may be used for the outside, whereby the same lock or case fastening is rendered applicable to a right or left hand door, so far as the cases are concerned.

143 *Cross-examined by complainants' counsel.*

Q. 1. You state that you are familiar with the claim in Sherwood's reissued patent of Oct. 7, 1856. Are you familiar with the construction of the lock?

A. I have examined the specifications and drawings of the same.

Q 2. State whether or not the bolt is in the centre of the lock.

A. From the drawing I should say it was not, there being a narrow plate, marked S, in a similar position and apparently for a similar purpose, with a narrow plate one side of the front end of Exhibit "E E."

Q. 3. You state you have examined the specification of Sherwood's

patent, reissued Oct. 7, 1856. Has or has it not two faced plates like the one on the end of the lock Exhibit "E E."

A. The specification describes two such plates, but I have always regarded that part of the specification and drawing as obscure, and do now believe, from an inspection of the model marked "W. H. Sproul," that but one such plate was designed to be used on the outside, and that always on the outside.

Q. 4. State, from reading that specification, whether the bolt is not in the middle of the lock, and whether the words "the aperture for the bolt in the front end of the lock is as wide as said end," does not mean that the lock fills up all the space between the face-plates of the lock.

A. The terms of the specification are such, and perhaps have that signification, which would bring the bolt in the centre if this plate S were removed.

Q. 5. Have you ever seen the lock as manufactured by the complainant's in this case? If yea, state the portion of the lock with regard to the face-plates—the bolt I mean.

(Objected to as irrelevant.)

A. I have seen them; they are usually in the centre, or equally distant from the plates.

Q. 6. State whether or not, if the bolt is not in the centre of the lock, the same lock could be used for a right or left hand door without altering the position of the keeper.

(Objected to as irrelevant and not proper cross-examination.)

A. In the application of all locks, the lock is first applied to the door and the keeper adjusted to it, so that there could be no more difficulty in applying a lock with a reasonable amount of variation to the one side or the other.

*Resumed by respondents.*

Q. 1. State whether you are acquainted with the locks manufactured by respondents.

144 A. Yes.

Q. 2. State whether they have at any time manufactured locks with an internal arrangement similar to that described in the specification of the Sherwood patent above referred to, and such as those contained in the model "W. H. Sproul."

(Objected to by complainants' counsel as being new testimony and not relevant.)

A. I am familiar with the locks, and they have never made such locks with such internal arrangement.

ANDREW PATTERSON.

H. SPROUL, *U. S. Com.*

Charles Ballinger sworn:

Q. 1. State your age, residence, and occupation.

A. My age is 33 years; my residence, Birmingham, Allegheny county; occupation, machinist and glass-mould maker.

Q. 2. Exhibits "A A," "C C," and "E E," shown witness. State what you call these locks, and what they are intended for.

A. "C C" and "E E," are dead-locks; "A A," an ordinary dead-lock with a latch-bolt attached to it. They are intended for gates or doors, and similar purposes for which such locks are used.

Q. 3. State whether or not the cases of those locks, or any of them, are so finished that either side may be used for the outside.

A. I believe they are.

Q. 4. State whether or not you are acquainted with the claim of Sherwood's patent of October 6, 1856, reissued patent.

A. I have the specification now before me.

Q. 5. Please read the same, so far as the cases are concerned. Witness reads: "What I claim as my invention and for which I desire an exclusive right, by letters patent, is making the cases of door locks and latches double-faced; also finished that either side may be used for the outside, in order that the same lock or cased fastening may answer a right or left hand door substantially as described."

Q. 6. State whether the case of these locks before you, marked "A A," "C C," and "E E," differ in principle from the claim you have just read, if in anything.

A. They do not differ in principle, and but very slightly in detail.

*Cross-examined by complainants' counsel.*

Q. 1. State whether or not you ever examined this specification before to-day, and whether you are familiar with the claim as therein expressed.

A. I am not certain that I examined this specification; I examined one with special reference to the keeper.

145 Q. 2. Was it the specification and claims of Sherwood's reissued patent of October, 1856, that you examined before?

A. I am not certain.

Q. 3. In your examination-in-chief you say the Exhibits "A A," "C C," and "E E," differ but very slightly in detail from the lock or cased fastening as described in Sherwood's reissued patent of October 7, 1856. Please explain the difference.

A. I find in Exhibit "E E" a plate attached to one side of the lock case, which is put on to suit some local peculiarity; the lock case is perfect without it. In Exhibit "C C," in the bolt aperture in the front edge of the lock case, there is a piece of brass attached, what I believe as repairs or to meet some local peculiarity. Exhibit "A A" differs more than any of the others by having a greater thickness between one side of the lock and the other, or that the bolt is nearer one side of the lock than the other.

CHARLES BALLENGER.

H. SPROUL, *U. S. Commissioner.*

A bolt here offered in evidence marked "N N," H. Sproul.

Adjourned to meet to-morrow morning, at 10 o'clock.

THURSDAY, *March* 31*st*, 1859—10 *o'clock a. m.*

Parties met pursuant to adjournment.

John M. Frederick sworn:

Q. 1. What is your name, age, occupation, and residence?

A. My name is John M. Frederick; my age, 30 years; occupation, carpenter and pattern-maker; and residence, Pittsburgh.

Q. 2. State whether or not the cases of these locks, marked Exhibits "A A," "C C," and "E E," are double-faced, or so finished that either side may be used for the outside, so that the same lock may answer for a right or left hand door without turning the lock upside down or changing any of its parts.

A. Yes.

JOHN M. FREDERICK.

H. SPROUL, *U. S. Commissioner.*

Exhibit "Q Q," H. Sproul, being a dead-lock, offered in evidence with an offer to prove that it was manufactured and sold by complainants, which complainants' counsel admit.



LIVINGSTON, COPELAND & Co.
*vs.*
JONES, WALLINGFORD & Co.

Testimony taken by agreement at Fort Edward, State of New York, before George L. Downing, a commissioner appointed by the circuit court of the United States, western district Pennsylvania, on the 25th September, 1858.

Hugh P. Hamblin, being duly cautioned and sworn, testified as follows:

I am acquainted with Calvin Adams, one of the parties to these suits. I am acquainted with John P. Sherwood, of Fort Edward, Washington county, New York. I recollect of an interview between Calvin Adams and John P. Sherwood in the fall of 1856, at this place, in September, I think. I was present, also Mr. Calvin Adams, John P. Sherwood, Nicholas M'Intyre, then a justice of the peace, and Mr. Bakewell. They were present at my office at that time. Mr. Adams and Mr. Bakewell were there on purpose to make an arrangement to get a patent extended on a lock—janus-faced door-lock, I believe. Mr. Adams there stated he then was the owner of the patent, and that he wanted to get it extended for the next seven years if he could, and he said in order to get it extended he would have to assign it back to Sherwood. He said the Commissioner of Patents had told him so; he said he had had a talk with the Commissioner on that subject, and he had told him it was necessary to do so. The Commissioner had said that the patentee must own the patent to enable him (the Commissioner) to extend it. Mr. Adams did, I believe, at that time, assign the patent back to Sherwood. I cannot remember distinctly who were the subscribing witnesses to the papers. I sub-

scribed some of the papers; don't recollect which. After the execution of this assignment there was a power of attorney executed to William Bakewell by John P. Sherwood. There was also an assignment executed by Mr. Sherwood to Mr. Adams, for the extended term of the patent hereinbefore referred to. Mr. Adams said he would have this assignment from Sherwood to him drawn up, signed
147 and sealed, and have it put into Mr. Bakewell's hands, to be delivered to Mr. Adams when the extension should be granted. He said that would avoid the difficulty and expense of coming back here and getting Mr. Sherwood to assign back to him after the extension was granted. Mr. Bakewell was to deliver this assignment to Adams when the extension was granted, and when Mr. Bakewell was to receive notice from Mr. Sherwood that the moneys due or agreed to be paid from Mr. Adams to Mr. Sherwood were paid. Nothing was said to whom the patent and extension were to belong in the mean time. Mr. Adams said he wanted Mr. Sherwood to hold the title to patent, because he could not get it extended in the name of the assignee. That is the reason he gave for making the assignment to Sherwood. I don't recollect of any money being paid by Adams to Sherwood at that time; there might have been; I do not remember. I don't recollect what the power of attorney to Bakewell contained. At the time of the drawing of this assignment Adams said he would have this assignment drawn, and power of attorney authorizing Mr. Bakewell to complete the assignment and deliver it over to Adams when the extension was granted. Mr. Adams did not, that I know of, say, in presence of Sherwood, that this power of attorney contained anything about the delivery of this assignment to Adams. Adams did not state in my presence what the power of attorney contained, but stated he would have the power of attorney drawn, authorizing Bakewell to complete the assignment and delivery to Adams upon Adams complying with the terms hereinbefore referred to by me. I am not positive Sherwood was present at this conversation; he was in and out occasionally with Adams; think he was present.

*Cross-examined by Wm. Bakewell, esq.*

I was never employed by Adams in this matter, but was employed by Sherwood and paid by Adams; don't recollect of Mr. Bakewell telling me he wished me to be considered as the attorney of Adams in this matter. I know I was not. Adams said he did not want to be known in the Patent Office in this matter, but that he wished the whole matter conducted in Sherwood's name: that is, that he did not want it to be known that Sherwood had reassigned it to him. He said it might defeat him in obtaining an extension. I think Mr. Bakewell drew the power of attorney; don't know whether I read the power of attorney or not; I don't know what that power of attorney contained; don't know that it contained authority to Bakewell to procure an extension of the patent for Sherwood, but presume it did. At this interview Mr. Adams paid me, in presence of Mr. Bakewell, fees for my services. Mr. Adams did not at that time say he wished me to consider myself as his attorney, that I recollect of, or Mr. Bakewell, that I recollect of. Mr. Adams afterwards told me I was

148 not his attorney. Mr. Adams told me this after Mr. Jones had got his assignment; I was then Jones's attorney. I was employed by Mr. Jones as his attorney about the date of the execution of the first assignment from Sherwood to J. H. Jones. I *did not tell Mr. Jones about Sherwood's assignment of extended time to Adams.* I I am still Jones's attorney in this case.

H. P. HAMBLIN.

Subscribed and sworn before me this 25th September, 1858.

GEORGE L. DOWNING,
*Commissioner.*

Nicholas M'Intyre, being first cautioned and sworn, testified as follows:

I reside in Fort Edward, Washington county, New York, and was a justice of the peace in the fall of 1856. I was present at an interview between Mr. Adams and Mr. Sherwood, in September, 1856, at the office of H. P. Hamblin, in this place; I was there at the request of Mr. Adams, to take the acknowledgment of some papers between him and John P. Sherwood; as I understood from Adams and Sherwood, were an assignment of a patent-right lock, called the janus-faced lock. Adams, Sherwood, Wm. Bakewell, Mr. Hamblin, and myself were present. An assignment of the extended patent was signed and acknowledged by Sherwood to Adams at that time, in my presence, before me. The assignment was delivered to Mr. Bakewell. The date in the assignment given by Sherwood to Adams was left blank; that was one that was delivered to Mr. Bakewell. I made a remark that date was left blank. The reason then given, as I understood it, was that Mr. Bakewell had the power to fill the blank when the extension was granted. Mr. Bakewell was acting as attorney for Mr. Adams at that time, as I understood it; was going to Washington to get an extension of the patent. There were conditions, that when blank was filled up, Adams was to pay Sherwood a sum of money; don't know the amount. The understanding between Adams and Sherwood was that Bakewell was not to deliver up the assignment until he had directions to do so from Sherwood. There was nothing said whether Bakewell was to deliver assignment to Adams or not, except what I have hereinbefore stated. I know at one time Sherwood refused to sign the papers, that was at this interview; he gave as a reason, that Adams had not paid as he agreed to. Mr. Adams told Sherwood that he had been to a good deal of expense, and if Sherwood would remunerate him for moneys he had paid out, he, Sherwood, might have the patent. Sherwood then inquired how much Adams had expended, and the other expenditures would be. Adams said it would be one thousand dollars or over. I don't recollect whether an agreement was made between them in relation to the payment of the one thousand dollars. The arrangement was, that Mr. Bakewell was not to deliver the assignment from Sherwood to
149 Adams until Mr. Sherwood gave Bakewell notice that Adams had complied with the agreement. This was not a mere declaration, but an agreement between Sherwood and Adams before the

execution of the assignment. Adams made this arrangement because Sherwood refused to sign the papers until it was made. Sherwood did not appear to understand Adams at first; they afterwards came to the conclusion I have just mentioned. Did not hear anything said as to who was to have the control and own the patent up to the time the extension was granted. I understood at the time the arrangement was conditional. The bargain was not to be perfected until the extension was granted. I recollect afterwards of Mr. Adams coming to me for the purpose of getting Mr. Sherwood to give him another assignment. Adams at that time wished me to draw him an assignment of this patent from Sherwood to him; this was after the extension. Adams said he understood Jones was trying to cut in between him and Sherwood. Mr. Adams then set down and drew one himself, and requested me to go with him to Sherwood and get him to execute it. I went with him, and met Sherwood up street. Mr. Mr. Adams told him he had come to pay him that money, and wished to know whether he should deposit it in bank, or what he should do with it. The amount was four or five hundred dollars, I do not recollect which. Adams said, "John, I will either go and deposit it in the bank to your credit, or else you shall tell me what other disposition you want me to make of it." Sherwood then turned right about after hearing this, and went away without making any answer. Mr. Adams and I then walked on a little further, and met Bushrod Sherwood, a brother of John, and asked Bushrod what he should do about it; said he had money for John. Bushrod said he had nothing to do with John's business, and could not advise him what to do.

*Cross-examined by Wm. Bakewell, esq.*

I made an affidavit in this matter about 1st February, 1858. I went with Mr. Jones to New York to make the affidavit; it was in relation to this subject-matter. Mr. Jones said he had been to see his attorney in New York, and he wanted to see the witness. I staid in New York one day at that time. I have not been employed by Mr. Jones in this matter. The agreement referred to by me between Sherwood and Adams was not reduced to writing. I am not willing to swear that the assignment from Sherwood to Adams was not handed over to Adams by Sherwood at that time; my impression is it was handed over to Bakewell. I did not read the assignment from Sherwood to Adams; it purported to be an assignment. At the time Sherwood executed the assignment from him to Adams Mr. Bakewell was present; I was there in the office about half an hour before paper was executed, as I think there were other papers executed at same time. I think there were two others; one was said to be a power of attorney, the other was an assignment from Adams to Sherwood, I understood. The first I ever saw of J. Hervey Jones was on the 25th December, 1856. I was introduced to him by Mr. Hamblin.

*Redirect.*

Mr. Bakewell was not present at the time when agreement between Adams and Sherwood in reference to the delivery of the assignment after the extension was made.

NICHOLAS M'INTYRE.

Subscribed and sworn before me this 25th September, 1858.

GEORGE L. DOWNING,
*Commissioner.*

*Amendment of respondents' answer, allowed by the court Nov.* 27, 1858.

"And these defendants, further answering said bill of complaint, on information and belief, say that John P. Sherwood was *not the first inventor* of the improvement or thing therein set forth as the invention of said Sherwood, and specified and claimed as his invention in the letters patent, stated in said bill to have been issued to him by the United States under date the 17th day of December, 1842, and thereafter extended as in said bill stated; on the contrary they say that prior to any invention thereof by said Sherwood, the same was made and publicly known and used in the city of New York, in the State of New York, by John L. Room, Sarah Harron, &c., &c.

"And also in the city of New York, State of New York, by divers others persons, whose names and residence will hereafter be given to said complainants."

151 *Amended bill.*

JAMES K. MOORHEAD *et al.*
*vs.*
J. HERVEY JONES *et al.*
} In the United States court for the western district of Pennsylvania.

The defendants respectfully pray the court to be allowed to amend their answer in this case, and they represent that the proposed amendment is not made for the purpose of vexation or delay, and that the same is material, and that the matters and things set forth and contained in said proposed amendment only recently came to the knowledge of the said defendants, and subsequently to the filing of their said answer.

J. HERVEY JONES,
ALEX. M. WALLINGFORD,
WM. K. NIMICK,
ALEX. NIMICK,
Per J. H. JONES.

CITY OF PITTSBURGH, *ss:*

Before me, an alderman of said city, personally came J. Hervey Jones, who, being duly sworn, saith that the facts set forth in the above petition are true to the best of his knowledge and belief.

J. HERVEY JONES.

Sworn and subscribed Sept. 18th, 1858.

*Coram.*—R MORROW, *Alderman.*

CITY OF PITTSBURGH, *ss:*

Before me, an alderman of said city, came J. Hervey Jones, Alex. M. Wallingford, Wm. K. Nimick, and Alexander Nimick, who, being duly sworn, say that, on information and belief, the facts set forth in the foregoing amendment to the original are true, and that the same came to them very recently, and subsequently to the filing of their original answer.

Sworn and subscribed before me, Sept. 21, 1858.

LEONARD S. JOHNS, *Alderman.*

152 And these defendants, further answering said bill of complaint, on information and belief, say that John P. Sherwood was not the first inventor of the improvement or thing therein set forth as the invention of said Sherwood, and specified and claimed as his invention in the letters patent stated in said bill to have been issued to him by the United States, under date the 17th day of December, 1842, and thereafter extended as in said bill stated; on the contrary, they say that prior to any invention thereof by said Sherwood, the same was made and publicly known and used in the city of New York, in the State of New York, by John L. Roome, Sarah Harron, Michael Gracey, Patrick M'Caffrey, Joseph Ely, Ezekiel Combs, Rev. Frederick W. Geisenheimer, C. F. Hope, Ferdinand Marradell, William Disbrow, Chauncey Bradey, Charles L. Carpenter, James G. Jacobus, Hervey Peasler, Alfred Galloway, George Tappan, Samuel M'Cullough, Oliver A. Farren, John Pernell, John W. Onderdonk, Thomas Hall, William Russell, Samuel S. Day, Wm. Ballainy, S. B. Alltrause, Charles C. Carpenter, all now residing in said city of New York; and by George W. Skelhorn, of Plainfield, in the State of New Jersey; and by Nathaniel Labarts, of Morrisiana, Westchester county, State of New York; and by Wm. Holmes, of Baltimore, in the State of Maryland; and by Austin Regna, of Morristown, in the State of New Jersey; and by Levin Smith, of Rossville, in the State of New York; and by Theodore M. Kincohr & Co., Hartford, in county of Hartford, State of Connecticut; and by Charles B. Martin, of Mount Vernon, in the State of New York; and by Jacob G. Day, of Philadelphia, in the State of Pennsylvania; and by Franklin Johnston, of Blazing Star, in the State of New York; and by Higgins, of Williamsburgh, in the State of New York; and by John Johnston, of Jersey City, in the State of New Jersey; and by Solomon Andrews, of Perth Amboy, in the State of New Jersey; and by Paul Hedle, formerly of the city of New York, and now deceased; and by John G. Tibbits, formerly of the city of New York, and now deceased; and by Benjamin Birdsall, formerly of the city of New York, and now deceased; and by Lemuel Richardson, formerly of the city of New York, and now deceased; and by Robert Newell, formerly of the city of New York, and now deceased.

153 And also in the city of Philadelplia by divers persons, due notice of whose names and residence will hereafter be given to said complainants; and also in the city of Boston, Massachusetts, by divers persons, due notice of whose names and residence will hereafter

be given to said complainants; also in the city of New Haven and Hartford, State of Connecticut, by divers persons, due notice of whose names and residence will hereafter be given to said complainants; also in the city of Providence, Rhode Island, by divers persons, due notice of whose names and residence will hereafter be given to said complainants.

Also in the cities of Albany, Troy, Buffalo, and Brooklyn, New York, by divers persons, due notice of whose names and residence will hereafter be given to said complainants; also in the cities of Jersey City, Newark, and Trenton, New Jersey, by divers persons, due notice of whose names and residence will hereafter be given to said complainants.

Also in the city of Cincinnati, Ohio, by divers persons, due notice of whose names and residence will hereafter be given to said complainants

Also in the city of New Orleans, Louisianna, by divers persons, due notice of whose names and residence will hereafter be given to said complainants.

Also in the city of Washington, District of Columbia, by divers persons, due notice of whose names and residence will hereafter be given to said complainants.

Also in the city of Baltimore, Maryland, by divers persons, due notice of whose names and residence will hereafter be given to said complainants.

And also in the city of New York, State of New York, by divers other persons, due notice of whose names and residence will hereafter be given to said complainants.

J. HERVEY JONES.
A. M. WALLINGFORD.
WM. K. NIMICK.
ALEX. NIMICK.

Witness present,
LEONARD S. JOHNS.

154 OPINION OF THE COURT.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } In C. C. U. S. W. D. of Pa., on motion for leave to amend.

The complainants, as assignees of a patent granted to John P. Sherwood for an improvement in door-locks, filed their bill to restrain the respondents from infringing, and for an account.

The respondents answered, admitting their use of the improvement, and claiming a right to do so by reason of a prior assignment to them by the patentee. They also filed a cross-bill, alleging their ownership of the patent, and praying for an injunction and account as against the complainants. After answer and replication, and when the parties were about to commence taking their testimony, the defendants made application to a judge of the court, by petition, for leave to amend their answer by striking out an admission that they have made door-

locks having substantially the improvements mentioned and specified in the patent, *as stated in complainants' bill*, and inserting a modified admission, denying an infringement of any of the claims of the patent, except the first, to wit: door-locks with double face. They pray for leave, also, to amend by taking an issue to the validity of the Sherwood patent.

The district judge to whom this application was made did not then grant it, but adjourned the matter over till the present term, when the motion has been again argued before the court. In the mean time the testimony on both sides has been taken, and the case set for hearing at this term. That amendments may be allowed by the court after issue and at any time before final decree, when it is manifest that the purposes of substantial justice require it, is admitted. But while it is admitted that while the courts have such authority in the use of a sound discretion, they must be very cautious in its exercise. "When the object is to let new facts and defences wholly dependent on parol testimony, the reluctance of the court is greatly increased." (3 Sumner, 583.)

As the bill in this case was filed to the last term, and as the application for leave to amend was first made before the testimony
155 was taken, it is not subject to the charge of laches, or great delay. The defendants have sworn also that the matters and things set forth and contained in the said proposed *amendment* only recently came to their knowledge, and subsequently to the filing of their said answer. "This can only refer to the last matter of amendment, to wit: the invalidity of the patent. As to the first and second, there is no allegation or proof of any mistake of fact or law in the answer first sworn to, or that the extent of their infringement was not as well known before as since the answer was sworn to. These amendments cannot be allowed.

The only question, therefore, is, whether the respondents should now be allowed to set up a matter of defense inconsistent with their first answer. Assuming their answer and affidavit to be true, the case stands thus: they purchased a patent right from the patentee; supposed they had obtained a valid patent; they make defense to complainants' bill, alleging a previous purchase; after filing their answer, they discover that the patent is invalid and their title to it good for nothing; why should they not be allowed to contest the validity of the patent, and show that the complainants, as well as themselves, have been defrauded by the patentee? For if, under such circumstances, the respondents should be enjoined from using the supposed invention, it would present this anomally: That the respondents would be hindered from using that which belongs to the whole world. Under the peculiar circumstances of this case, we think it would not be an abuse of the sound discretion of the court to permit the respondents to file a supplementary answer setting up this defense, on payment of costs which have accrued on the abandoned defense:

1st. Because there has been no laches or delay, the applica- being made during the term to which the bill was filed.

2d. The application was made as soon as the fact was discovered, and before any testimony was taken.

3d. If the defense be true, as we now assume, although the defendants might have discovered it before by proper diligence, yet believing their title to the patent better than that of complainants,
156 their attention was not called to contest its validity till they discovered the invalidity of the title which has been imposed on them by the patentee.

4th. There is nothing contradictory or inconsistent between the answer as filed and the amendment proposed to be made: The first was made under the supposition that the patent, as well as the respondents' title to it, were valid; the new discovered defense admits they were doubly wronged by a bad title to a worthless patent.

Whether this defense can be satisfactorily established is the matter to be tried. The parties may have till April next to take testimony, and the case stand for hearing at May term next, or sooner if the parties desire it.

Per cur. R. C. GRIER.

157 In the circuit court of the United States, western district of Pennsylvania.

LIVINGSTON, COPELAND & Co. *versus* JONES, WALLINGFORD & Co. } In equity.—On final hearing on bill, answer, and exhibits.

This case was argued at May term, 1859, by E. M. Stanton and Wm. Bakewell, for the complainants, and by G. P. Hamilton and Geo. Gifford, for the respondents.

At November term, 1859, the following opinion was delivered by Mr. Justice Grier:

The parties to this bill are two manufacturing firms in the city of Pittsburgh. They are both engaged in the manufacture of door-locks.

The complainants claim to be the owners of a patent granted to John P. Sherwood for an improvement in door-locks, issued originally on the 17th of December, 1842, and afterward extended for seven years from the 17th of December, 1856.

The bill charges the respondents with infringing this patent.

The respondents' first answer admitted the use of the patented invention, but claimed that they are the true owners of the extended patent, and by a cross-bill they prayed that complainants might be enjoined from using the invention.

After the testimony had been taken on both sides upon this issue, involving the title to the patent, the respondents, discovering that they must necessarily be defeated, obtained leave from the court to withdraw the answer and cross-bill, which admitted the validity of the Sherwood patent, and to file another answer denying its originality and validity. This being the only question in the case, it is unnecessary to notice further the history of the patent, its renewals and assignments.

Till within a few years past most of the door-locks used in this country were imported from England. It was an important object, therefore, to discover or invent some plan by which this article could be made cheaper and better than the imported, notwithstanding th

higher price of labor here. Such an inventor, who, by bring-
158 ing his invention into market, could expel the foreign article, would evidently be a public benefactor, the article of door-locks being one of immense consumption in this country. This object was in part effected by making the locks of cast iron; but another difficulty in the way of these cheaper productions was found in the fact that door-locks had to be made right and left, and a lock made for a right-hand door would have to be turned upside down in order to be used on a left-hand door, and *vice versa*. It became, therefore, a very important object to those who manufactured, and to those who dealt in this article, that this difficulty of right and left hand locks should be somehow obviated, and that every lock might be equally capable of use on right or left hand doors.

Sherwood was the first to invent a mode of effecting this object. But as it required the expenditure of a large capital and much enterprise to make and establish in the market a new manufacture of this kind, the invention was not put into successful operation. The inventor had not the capital necessary, and failed to persuade others who had, to embark in the speculation. The complainants having embarked in the manufacture of door-locks, and properly appreciating the value of Sherwood's invention, sought out the inventor, and purchased his patent, and have now succeeded in establishing a manufacture both cheaper and better than that imported.

There is no better evidence of the value of the invention than the contrivances used by the respondents to supplant the complainants by obtaining the assignment of the extended term of the patent, which they must have known had been obtained by the money and active exertions of complainants, and for their use. Their conduct proves their apprehensions of the value of the patent, and their oath on record admits its originality.

After such a course of conduct, they must be held to make a clear case of mistake in the Patent Office and in their own sworn answer, as regards the originality of this invention.

The patent is for "a new and useful improvement in door-locks."

The schedule states that every part of the lock may be made of cast iron as the cheapest material, but does not claim that as the patentee's discovery. The first improvement claimed is in the case, which is to be made double-faced, and the schedule points out the form and mode of making the castings for such cases.

The second improvement is in making the bolt with notches as described, so as to put them, by simple reversion, to a right or left hand door.

The claim which it is admitted that respondents infringe is as follows:

"What I claim as my invention, and for which I require an exclusive right by letters patent, is making the case of door-locks and latches double-faced, or so finished that either side may be used
159 for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described."

Simple as this improvement may appear at first view, it is clear it

had never before been suggested or put in practice for the purpose of making a better manufacture at a cheaper rate. Before this patent, door-locks had *not* been so made, nor had it occurred to any one that by these simple contrivances this manufacture could be thus improved and cheapened.

The respondents, in support of the issue tendered by them of want of novelty, have not pretended that any one had ever manufactured Janus-faced door-locks with this device, intending thereby to obviate the difficulty of having right and left hand locks.

But they have given evidence concerning certain locks on gates, which having been necessarily made with close faces on each side, it is supposed might, if used merely as dead-locks, have been applied either to right or left hand gates.

The complainants have taken the wise precaution of purchasing all these old locks and producing them in court, *propria, persona*, accompanied also by the testimony of the manufacturer of the only one whose age is satisfactorily established to be older than the patent.

An examination of these locks is much more satisfactory than the examination of the testimony of witnesses calling thsmselves experts, and delivering opinions.

Not one of these locks was ever intended to be a right and left hand or Janus-faced look.

The custom-house lock is from an open out-door gate. Its inside is necessarily covered tight to preserve the works of the lock from the weather and from rust—a device necessary in all out-door gate-locks, It is not suited and never was intended for a Janus-faced lock. It is evidently finished on one side only. It is a left-hand lock, and is not a door-lock at all.

The lock taken from the city hospital gate is a dead-lock; a right hand lock. By putting it wrong side out, and making some alterations, it might be converted into a left-hand dead-lock. The same may be said of the gate-lock of St. Mark's church, and all the others.

The mechanic who made the custom-house lock in 1840 swears that it was intended and finished only as a left-hand lock; that he never thought of a *Janus-faced lock*, and never manufactured one; but had different patterns for right and left hand locks.

It is abundantly clear, from the inspection of the locks, that the maker of them was not in search of a plan for *Janus-faced locks*, or aware of the value of such an invention. They may have stumbled over it, but not seeking it, did not think it worth picking up or examining—as in many other cases, they were near the invention, and might have made it if *they had only thought of it*. Those who are wise *after* the event, and who have been examined as experts, have given testimony which, when analyzed, amounted to this, and no more: that these gate-locks, being covered on the inside, might, by a little change, have been made into Janus-faced locks, though not so intended by the maker. This fact is now apparent to a mechanic who has seen the patented invention before him.

Experience has caused me to have little confidence in the opinion of experts and professors, who often have more knowledge than judgment. Courts and juries may be much benefited in their researches

by the one, while they would be led into great error by confiding too much to the other.

The art of printing was stumbled over for five thousand years, and if a patent for it were now presented to an expert, he would show you at once that the whole art consisted in multiplying impressions from a combination of movable type. He would point you to the tracks of animals as original impressions from movable types; and show the invention of printing letters to be as old as Adam.

Few patents could stand the test of such ingenuity as this. Incredible as it may appear, yet it is nevertheless true, that on the trial of the originality of Morse's telegraph, it was gravely urged that two thieves in the penitentiary, who had corresponded by means of scratches and dots on the prison walls, had preceded Morse in the invention of this most astonishing and useful art.

We are of opinion, therefore, that the defendants have not succeeded in establishing the defense pleaded in their amended answer, and the complainants are entitled to the decree prayed for in their bill.

Per Cur.

R. C. GRIER.

And it is ordered that it be, and is hereby referred, to Henry Sproul, esquire, as master and commissioner in chancery, to compute, ascertain, and state an account of the amount of profit and gains so had and received by the defendants, and of the damages sustained by complainants by reason of the infringements aforesaid, and to take process, and report the same to the court.

And it is ordered, adjudged, and decreed that in the mean time a writ of injunction in this cause, pursuant to the prayer in the said bill, enjoining and restraining the defendants, their agents and servants, and all other persons acting under their authority, from making, constructing, vending, or using in any way the said invention and improvements, or either of them, or any part thereof mentioned and described in the said patent, reissued and extended, or injure or impair the exclusive right of the complainants in the invention and improvements therein described.

161 In the circuit court of the United States, western district of Pennsylvania.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } No. 1, May term, 1858.—In equity.

*Abstract of evidence taken before Henry Sproul, esq., master in chancery, pursuant to decree of the court as follows:*

"It is hereby referred to Henry Sproul, esq., as master, to compute, ascertain, and state an account of the amount of profits and gains so had and received by the defendants, and the damages sustained by the complainants by reason of the infringement aforesaid,

and to take proofs and report the same to the court, with leave to either party to move the court upon notice for special instructions in reference to the taking of said account."

*Evidence.*

Charles B. Barr:

Am bookkeeper to defendants, and have been since January, 1857; the firm commenced January, 1857. Defendants commenced
162 manufacturing Janus-faced locks substantially as described in first claim of Sherwood's patent, some time in 1857. They kept a record of the number, different sizes, and kinds of such locks manufactured by them; it was kept at the time by Andrew Patterson, foreman; it is a book of original entry, and shows all the locks manufactured by defendants. They ceased manufacturing as soon as they understood that the court had rendered a decree against them. [Witness produces a statement made by him from the wages book referred to, marked "A, H. S."] This statement prepared by witness, and by Patterson, the foreman, and shows all the Janus-faced locks made by defendants from 27th June, 1857, to 3d July, 1859. Total number of Janus-faced locks and latches manufactured, 11,840$\frac{1}{12}$ dozen. Defendants also manufactured a plate lock, but this was not finished like a Janus-faced lock. [The original book from which statement was made, produced—some entries in pencil mark.] The entries in pencil were intended to be inked, but I had not time. Defendant made no Janus-faced spring latches. In the statement the horizontal line of figures refers to the numbers in defendants' catalogue. [Defendants' catalogue produced, marked "B, H. S."] In the statement the "trimmings" are not referred to. The trimmings vary; some locks have earthenware knobs, and some porcelain; some have britannia or iron or porcelain circle plates and escutcheons. There are also iron keys and brass keys—iron bolts and brass bolts. These variations we designate by letters in our catalogue, viz., V, A, R, I, E, T, Y, O, K, U, C. The application of these letters is found on page 8 of defendants' catalogue. Defendants did not sell any locks *without* trimmings.

The sales-books in my possession show the quantity of locks (Janus-faced) sold and consigned by defendants. There are two of them, No. 1 and 2.

[Book marked "C, H. S." produced.] Entries made in this book by witness in presence of the master. They perport to show the number of Janus-faced locks *sold* by defendants between 27th June, 1857, and 3d July, 1859. These entries are taken from the sales, books. It contains *all* the Janus-faced locks sold by defendants between those dates. The total number of Janus-faced locks *sold* by defendants is,

163

| | | |
|---|---|---|
| Rim-locks | 9,966$\frac{5}{12}$ | dozen. |
| Dead-locks | 997 | " |
| Cupboard locks and latches | 397 | " |
| Total | 11,360$\frac{5}{12}$ | doz. |

| | |
|---|---|
| Total number manufactured : | |
| Rim-locks ..... | 10,262$\frac{1}{2}$ dozen. |
| Dead-locks..... | 1,111 " |
| Cupboard-locks and latches..... | 466$\frac{1}{2}$ " |
| Total..... | 11,840$\frac{9}{12}$ doz. |
| The difference shows the number of locks and latches *on hand*... ..... ..... | 480$\frac{4}{12}$ doz. |

These 480$\frac{4}{12}$ dozen locks, &c., are still on hand. The defendants had not on hand any partially finished locks that I am am aware of, at time of the decree of the court. They ceased to sell on 3d July, 1859.

Statement " C " (of locks sold) shows the varieties of trimmings to the locks, &c., sold, corresponding with defendants' cotalogue, marked " B, H. S."

[Complainants' catalogue, marked " D, H. S.," shown to witness.] Witness being acquainted with the contents of this book, compares it, so far as it relates to Janus-faced locks, with the respondents' catalogue, and says that the different sizes and kinds of Janus-faced locks in the respondents' catalogue correspond substantially with the Janus-faced locks described in the complainants' catalogue. They correspond as follows :

| Compl'ts' catalogue. | | Respondents' catalogue. |
|---|---|---|
| No. 13, p. 33, | corresponds with— | No. 2, horizontal 5 inch Eureka lock, p. 10. |
| " 11, " 31, | | " 4, " 6 " Eureka rim-lock. |
| " 15, " 35, | | " 5, upright 4$\frac{1}{2}$ " " " " |
| " 12, " 32, | | " 6, " 5 " " " " |
| " 10, " 30, | | " 7, " 6 " " " " |
| " 8, " 28, | | " 8, " 8 " " " " |
| " 9, " 29, | | " 9, horizontal 8 " " " " |
| " 17, " 37, | | " 10, " 10 " " " " |
| " 20, " 39, | | " 11, upright 7 " " " " |
| " 21, " 40, | | " 12, horizontal 7 " " " " |
| " 14, " 34, | | " 13, upright 6$\frac{1}{2}$ " " " " |

| | Compl'ts' catalogue. | | Respondents' catalogue. |
|---|---|---|---|
| 164 | No. 4, p. 41, | corresponds with | No. 1, Eureka dead lock. |
| | " 7, " 41, | | " 2, " " " |
| | " 6, " 41, | | " 3, " " " |
| | " 5, " 41, | | " 5, " " " |
| | " 5, " 41, | | " 6, " " " |

The cupboard-lock latches, page 48, complainants' catalogue, correspond with cupboard-lock latches, marked A and J, page 33, respondents' catalogue.

The prices of the corresponding kinds in each of the catalogues is the same.

The several varieties of trimmings to the Janus-faced locks designated in respondents' catalogue, correspond in style and price with

those designated in the respondents' catalogue, in the order of the letters following:

In respondents' catalogue, V, A, R, I, E, T, Y,
In complainants' catalogue, X, A, B, C, D, E, F,

The prices of latches with similar trimmings are the same in both catalogues.

The respondents sold the locks at the prices named in their catalogue, "B, H. S.," subject to the usual discounts to the trade.

The discounts they allowed were, 5, 10, 15, and 20, sometimes 22½ per cent. 22½ per cent. was the highest, and seldom given, and in a few cases where they allowed 20 per cent. discount, they also paid freight.

Turner Strobridge:

Am pattern-maker in employ of complainants. Book "D, H. S." is the catalogue and price list of complainants; am acquainted with its contents. It contains a correct statement of the kinds and descriptions of Janus-faced locks and latches manufactured by complainants, between January 1st, 1857, and July 5th, 1839, and of the gross prices charged by the complainants therefor.

165 [Witness compares complainants' catalogue, "D. H. S.," with respondents' catalogue, "B, H. S."] These catalogues correspond as to the Janus-faced locks in the sizes, prices, and description, except that they are designated by different numbers and letters. Witness examines carefully C. B. Barr's statement as to the correspondence of the different kinds of locks and latches, and says it is correct.

I have made an estimate of the cost of manufacturing the various kinds and sizes of Janus-faced locks described in complainants' catalogue, which is as follows:

*Cost of manufacturing complainants' locks.*

| Nos. | Style. | Cost per dozen. | Nos. | Style. | Cost per dozen. | No. | Style | Cost per dozen. |
|---|---|---|---|---|---|---|---|---|
| 12 & 13 | X | $1 65 | 10 & 11 | X | $2 16 | 15 | X | $1 48 |
| | A | 2 08 | | A | 2 49 | | A | 1 81 |
| | B | 2 29 | | B | 2 78 | | B | 2 02 |
| | C | 3 06 | | C | 3 05 | | C | 2 80 |
| | D | 3 27 | | D | 3 34 | | D | 3 01 |
| | E | 3 44 | | E | 3 25 | | E | 3 27 |
| | F | 3 64 | | F | 3 54 | | F | 3 48 |
| | G | 1 95 | | G | 2 46 | | G | 1 78 |
| | H | 2 37 | | H | 2 75 | | H | 2 11 |

| No. | Style. | Cost per dozen. | No. | Style | Cost per dozen. | No. | Style. | Cost per dozen. |
|---|---|---|---|---|---|---|---|---|
| 8 | X | $3 24 | 9 | X | $3 08 | 17 | X | $6 20 |
| | A | 4 57 | | A | 4 41 | | A | 7 89 |
| | B | 5 06 | | B | 4 90 | | B | 9 22 |
| | C | 5 93 | | C | 5 77 | | C | 9 31 |
| | D | 6 42 | | D | 6 26 | | D | 10 64 |
| | E | 5 97 | | E | 5 81 | | E | 9 35 |
| | F | 6 46 | | F | 6 30 | | F | 10 68 |

| Nos. | Style. | Cost per dozen. | Nos. | Style. | Cost per dozen. | Nos. | Style. | Cost per dozen. |
|---|---|---|---|---|---|---|---|---|
| 20 & 21 | X | $2 25 | 20 & 21 | C | $3 96 | 20 & 21 | E | $4 16 |
| | A | 2 72 | | D | 4 25 | | F | 4 45 |
| | B | 3 06 | | | | | | |

166

| No. | Style. | Cost per dozen. | | Cost. |
|---|---|---|---|---|
| 14 | X | $3 14 | No. 4, 3 in.-dead-locks | $0 66 per dozen |
| | A | 3 61 | " 7, 3½ " " " | 0 84 " |
| | B | 3 94 | " 6, 5 " " " | 1 11 " |
| | C | 4 84 | " 5, 6 " " " | 1 98 " |
| | D | 5 17 | " 8, 9 " " " | 5 87 " |
| | E | 5 04 | " 9, 5½ " " " | 1 27 " |
| | F | 5 37 | " 10, 6 " " " | 4 35 " |

The complainants' cupboard-latch lock, like A in respondents' catalogue, costs..... $1 25 per dozen.
Do. like respondents' J, costs..... 2 06 "
Complainants' cupboard-lock, like defendants' V, costs..... 0 99 "

The letters X and A to H, in complainants' catalogue, refer to the various styles of trimmings of complainants' Janus-faced locks, and

the corresponding styles of trimmings are designated by the letters V, A, R, I, E, T, Y, U, C, in respondents' catalogue.

I arrived at my estimate of cost of manufacturing the complainants' locks in the following manner: The first item we estimated was the cost of castings, which was arrived at by taking the cost of pig metal in the year 1858—taking the cost of moulding, and all the labor connected with making the casting, including the steam-power, cost of cleaning the casting, and fuel used for melting and for running the steam-engine. I will give the items of my estimate of the cost of manufacturing *one dozen* of lock No. 13, style X, which corresponds with the lock marked No. 2 V in the respondents' catalogue:

| | |
|---|---|
| Cost of castings | $0 55 |
| " one dozen iron keys | 0 08 |
| " two dozen knobs | 0 20 |
| " fitting of cases | 0 05½ |
| " japanning | 0 05 |
| " fitting knobs and spindles | 0 05½ |
| " grinding | 0 03 |
| " fitting up one dozen locks | 0 27 |
| " screws, springs, and drops | 0 28 |
| " papering and boxing, per doz | 0 08 |
| | $1 65 |

167 The estimate for the other kinds and styles of locks was made in the same way.

The average discount allowed by the complainants to the trade was from 13 to 13½ per cent.; they ranged from nothing to 20 per cent. I ascertained the average discounts by taking from the complainants' books the amount of discounts allowed during each month from the amount of gross sales, and thus ascertained the average discount for the year's business. The discount of 20 per cent. was confined, I think, to dealers who purchased $20,000 worth in a year.

*Cross-examined.*

I stated the class of purchasers to whom 20 per cent. discount was allowed from information I picked up, and from my own observation, and conversation with members of complainants' firm—not any special conversation. I am not the book-keeper of the firm. The price of knobs given in my estimate includes the whole price delivered at complainants' works, taken from a list in complainants' office; the knobs were procured from Liverpool, Ohio. I did not make any account in my estimate of interest of money invested in manufacture of locks, nor rent of the establishment, nor cost of machinery, nor wear and tear of machinery, because the capacity of works and machinery was sufficient to make a great many more locks than they made there, without additional expense of room or machinery. Made allowance for wastage of material enough to cover all wastage. My estimate does not include salaries of members of the firm, but does include wages paid to hands engaged in manufacture of the locks; it

includes the direct expenses of manufacturing the locks, and not the general expenses of the establishment. Could not tell exactly the proportion which the manufacture of Janus-faced locks by the complainants, in the years 1857 and 1858 bore to their entire business; judge it to be about one-third. Do not know what their net profits of the entire business in those years was. Don't think their books show a separate profit and loss account of the manufacture of Janus-faced locks. Ascertained the discount allowed by looking over the complainants' books with Mr. Ahlborn, of Pittsburgh. In making Janus-faced locks manual labor does most of the work.

168 A. H. Ahlborn, (scalemaker, aged 41 years:)

[His testimony is the same as that of the preceding witness, excepting in the following particulars:]

The Janus-faced locks in respondents' catalogue correspond with those in complainants', but are designated by different letters and numbers, except that No. 14 complainants' is one-half inch smaller than No. 13 respondents'—the price being the same. Mr. Strobridge and I averaged the discounts for the year 1858; we did it jointly; we made the estimate of cost of manufacturing jointly. Does not know to what class of customers the discount of 20 per cent. was allowed. I should think the Janus-faced lock business to be more than one-third of complainants' business. Manual labor does most of the work in making the locks.

169 *Recapitulation of profit on Janus-faced locks, manufactured by respondents.*

| | | |
|---|---|---|
| No 5, corresponding with No. 15 of L., C. & Co.'s: | | |
| Gross catalogue price | $15,776 03 | |
| Average discount, 13½ per ct. | 2,129 76 | |
| Net sales | $13,646 27 | |
| Manufacturing cost | 6,860 62 | |
| | | $6,785 65 |
| Nos. 6 and 2, corresponding with Nos 12 and 13: | | |
| Gross catalogue price | $17,780 54 | |
| Average discount, 13½ per ct. | 2,400 37 | |
| Net sales | $15,380 17 | |
| Manufacturing cost | 7,728 95 | |
| | | 7,651 22 |
| Nos. 4 and 7, corresponding with Nos. 10 and 11: | | |
| Gross catalogue price | $14,151 99 | |
| Average discount, 13½ per ct. | 1,910 52 | |
| Net sales | $12,241 47 | |
| Manufacturing cost | 4,942 42 | |
| | | 7,299 05 |

No. 8, corresponding with No. 8:

| | | |
|---|---|---|
| Gross catalogue price | $1,152 77 | |
| Average discount, 13½ per ct. | 155 62 | |
| Net sales | | $997 15 |
| Manufacturing cost | | 364 50 |
| | | 632 65 |

No 9, corresponding with No. 9:

| | | |
|---|---|---|
| Gross catalogue price | $771 66 | |
| Average discount, 13½ per ct. | 104 16 | |
| Net sales | | $667 50 |
| Manufacturing cost | | 243 85 |
| | | $423 65 |

No. 10, corresponding with No. 12:

| | | |
|---|---|---|
| Gross catalogue price | $1,280 00 | |
| Average discount 13½ per ct. | 172 80 | |
| Net sales | | $1,107 20 |
| Manufacturing cost | | 428 75 |
| | | 678 75 |

Nos. 11 and 12, corresponding with Nos. 20 and 21:

| | | |
|---|---|---|
| Gross catalogue price | $1,006 91 | |
| Average discount, 13½ per ct. | 135 93 | |
| Net sales | | $870 98 |
| Manufacturing cost | | 292 88 |
| | | 578 10 |

No. 13, corresponding with No. 14:

| | | |
|---|---|---|
| Gross catalogue price | $1,770 45 | |
| Average discount, 13½ per ct. | 239 01 | |
| Net sales | | $1,531 44 |
| Manufacturing cost | | 673 12 |
| | | 858 32 |

Dead-locks, upright and horizontal, corresponding, &c.:

| | | |
|---|---|---|
| Gross catalogue price | $3,622 15 | |
| Average discount, 13½ per ct. | 489 00 | |
| Net sales | | $3,133 15 |
| Manufacturing cost | | 1,555 75 |
| | | 1,577 40 |
| Total profit | | $26,484 79 |

171 *Testimony produced by respondents.*

(Objected to by complainants' counsel.)

Andrew Patterson:

Am manager of respondents' works. I have made a calculation of the cost of manufacturing Janus-faced locks at respondents' works; I also made calculation of the profits made by defendants upon the said locks by their sale and manufacture.

[Paper marked "O, H. Sproul."] This paper contains an abstract statement of the cost, net price per dozen, net profit per dozen, number of dozens sold, and total profit on every variety of each size of lock sold by respondents; it also shows the proportionate cost and profit on the case, on the latch and keeper, on all other parts of the lock, and on the trimmings of every variety of each size of the lock sold by the respondents. The cost above referred to is exclusive of any charges for the current expenses of the works, or wear and tear of machinery, cost of tools, grindstones, *and some special salaries* that could not be given in detail. It also embodies the total profit on all the locks and trimmings sold by respondents, as indicated by the estimate in detail.

| | |
|---|---|
| Total profit | $22,567 33 |
| From which must be deducted for expenses not included in the detail | 9,284 39 |
| Which leaves a net profit on locks and trimmings | $13,282 94 |

Dividing this net profit in proportion to the cost of these parts between the cases, the latch and keeper, the other parts of the lock not patented, and the trimmings, which are not always sold with
172 the locks, it will appear that the net profits are—

| | |
|---|---|
| On the cases of Sherwood's patent | $3,123 48 |
| On the latch and keeper, exclusive of case | 1,221 53 |
| On other parts of the lock, (not patented) | 4,577 01 |
| On the trimmings, not part of the lock | 4,360 91 |

Mr. Charles B. Barr, who has been bookkeeper of the firm (respondents') since they commenced business, assisted me. I believe this statement to be a fair and correct statement of what it purports to be—the cost of manufacturing the locks as stated therein. I believe that this statement indicates larger profits than were realized by respondents on the sale of Janus-faced locks. From an inspection of their books and accounts, I believe it indicates larger profits than they made on the locks referred to in said statement.

Charles B. Barr:

I am bookkeeper of respondents, and have been with them since they commenced business. I assisted Mr. Patterson in preparing the

statement of the costs, profits, &c., of manufacturing and selling Janus-faced locks referred to in his testimony, and marked Exhibit "O." I believe it to be a correct statement of what it purports to contain, as far as we were able to ascertain.

173 *Report of master.*

From the testimony taken on the part of the complainants, it would appear that the net profits on the Janus-faced locks and latches manufactured and sold by the respondents from the 27th June, 1857, (the time they commenced to manufacture the Janus-faced locks in controversy in this suit,) to the 3d July, 1859, when the injunction of this court was served upon them, and at which time, from the testimony, it appears they ceased to manufacture these locks, amounted to the sum of $26,488 13. This amount embraces the net profits as given by the complainants' evidence, after deducting from the catalogue price an average discount of 13½ per cent. and the manufacturing cost, but makes no deduction for clerk hire, interest in capital invested, and other contingencies, which the respondents claim ought to be deducted from this sum.

From the testimony given by respondents (which has been objected to by complainants' counsel) it would appear that the net profits upon all the Janus-faced locks and latches manufactured and sold by them during the period above mentioned, (a detailed statement of which is hereto appended and marked "O, H. Sproul,") amounted to the sum of $22,567 33, from which they claim a deduction of $9,284 39, as follows: a proportionate share of the current expense of the establishment, and for grindstones, tools, &c., which, if deducted, would leave a balance of net profits on the locks and latches manufactured by the respondents (including every part of the lock) of $13,282 93. But the respondents contend that they are not legally liable to the complainants, except for the profits upon the case of the lock, or that part of the lock for which the complainants obtained a patent. And should the court be of that opinion, the amount of damage would be greatly reduced.

By a detailed statement made by the respondents, and given by them in evidence, which is hereto appended, and marked "O, H. Sproul," the profits upon each part of the lock are as follows:

174

| | | |
|---|---|---|
| The net profits on the case, (Sherwood's patent) | | $3,123 48 |
| " " latch and keeper | | 1,221 53 |
| " " other parts of the lock | | 4,577 01 |
| " " trimmings | | 4,360 91 |
| | | $13,282 93 |

This, according to the respondents' testimony, would show the profits on the different parts of the lock. But the complainants, having discarded this view of the subject, only gave in evidence the net profits on the whole lock.

There is a difference, however, of $3,910 70 between the net profits,

by the testimony of the complainants and that of the respondents, which may be accounted for in a desire on the part of the complainants to make the profits on the locks at its utmost limits, and on the part of the respondents the contrary, while each believe they are perfectly correct; and I am only astonished that the difference has not been greater.

If the court should be of opinion that the complainants are entitled to the profits on the whole lock, then they have the evidence on both sides, and can determine which is the more correct; but if they should be of opinion that the complainants are only entitled to the profits on the case, or that portion patented by Sherwood, then they have only the evidence of the defendants on that point, and must judge of its correctness, or refer it back to the master for further testimony on that point.

175 *Opinion of the court upon final hearing.*

In the C. C. U. S., W. D. of Penn'a, at Pittsburgh.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } No. 1 of May term, 1858. In equity.

This case having been referred to a master to compute, ascertain, and state an account of the amount of profits and gains of defendants, and damages sustained by pl'ffs, the parties appeared before him, and each produced testimony to support their own theory as to the mode of computing the same.

The defendants' bookkeeper was examined, and gave an account from their books of all the locks made and sold by defendants, infringing the Sherwood patent, owned by complainants.

The complainants claim that the measure of their damages is the amount of profits made in the manufacture of the whole lock, and a decree for the sum of twenty-six thousand four hundred and
176 eighty-four $\frac{79}{100}$ dollars, ($26,484 79;) their counsel, also, on the argument, claimed the power and duty of the court to increase the amount, because the defendants were wanton and fraudulent infringers.

The defendants contend that as the patent of Sherwood was for an improvement of an old and well-known machine, the measure of the complainants' damages would not be the profit on the manufacture of the whole lock, but only on the improvement, to wit, the case of the lock.

The master's report gives the amount of the net profits as exhibited by the respondents' statement of their account, $22,567 23, from which they claim a deduction of $9,284 as the proportionate share of the current expense of the manufactory, locks being one of the various machines manufactured by respondents; that, deducting this sum, the complainants would be entitled to a decree for $13,282$\frac{93}{100}$ on their own theory.

That by a detailed statement given in evidence, respondents
177 apportion the profits on each separate part of the lock as follows:

| | |
|---|---|
| The gross profits on the case, (Sh'rwood patent)..... | $3,123 48 |
| Latch and keeper..... | 1,221 53 |
| Other parts of the lock..... | 4,377 01 |
| Trimming..... | 4,360 91 |
| | $13,282 93 |

No exceptions has been taken to the report of the master, and the court cannot be called on in the argument to correct his finding of the facts, or draw a different conclusion from the testimony. The bill called for an account of the profits. The respondents have filed their account; its truth, as to the numbers of the patented articles sold, is not disputed. Some experts have given an opinion that the net profits were greater by some three thousand dollars than the respondents admit. But it does not sufficiently appear that the account of profits as stated by respondents' accounts from their own books, and calculation of their manager, who speaks from actual knowledge, is incorrect; and this testimony is more worthy of
178 reliance than the opinions of mere experts, or calculations founded on gains made by complainants at their factory. But this amount of twenty-two thousand dollars included only the direct expenses of manufacturing the locks, without including the general expenses of the establishment. It made no allowance for interest of money invested in the manufacture, the cost of machinery, wear and tear, expenses of sales, insurances, agencies, transpo tation, bad debts, &c., &c., all of which necessarily and largely diminish the gross amount of profits received.

The opinion of Mr. Justice Nelson, to be found 16th Howard, 487, which is declared by the Supreme Court to be an able and correct exposition of the law, (except on complaint, to be hereafter considered,) asserts the principle to be correct which is assumed by respondents in their calculation.

The correctness of the calculation as reported has not been assailed by evidence. As a portion of the master's report, made without
179 exception or evidence to impugn its correctness, it must be assumed to be just.

By the report this balance, constituting the clear net profits made by respondents' sale of locks, which infringed the patent, has been apportioned to each part of the lock the in proportion to the cost of each, taken separately as parts of the whole; and it is contended by respondents' counsel that as the complainants' patent was only for an improvement in the case of the lock, the measure of damages should be but $3,123, the sum apportioned as the profit of the manufacture of that portion.

The case of Seymour *vs.* McCormick (16 Howard, 480) is relied on as governing this, and requiring the decision of it in favor of the respondents' theory.

A careful examination of the facts of that case, and the principles adjudged by the court, and a comparison with the facts presented

180 by this case, will be necessary to a *to a* correct decision of the present controversy.

The patent of the reaping-machine of McCormick had expired, but McCormick had obtained a patent for a small addition or improvement to this machine, (a raker seat.) The machine with the raker's seat did not, as a whole, constitute a new machine or manufactured article, giving an entire monopoly in the market to the patentee and his licensees. The patentee had not the monopoly of exclusive right making or selling the peculiar reaping-machine as one invention.

He could not supply the market with machines with or without the addition of the raker's seat; on the contrary, his price for a licence to make and use this improvement on the machine was ten dollars. The wrong done to McCormick was the non-payment of this licence fee, which respondent had previously paid

The court below had instructed the jury that the measure of
181 damages for infringing the patent for the addition or improvement to a well-known machine should be the profit made on the whole machine. This was decided to be error.

The court say that there cannot, in the nature of things, any one rule of damages which will apply to all cases, and the mode of ascertaining the damages must depend on the peculiar nature of the monopoly granted. If the inventor's profit consists neither in the exclusive use of the thing invented, or in the monopoly of making it for others to use, but in having a general use of it by all who are willing to pay him the price of his licence, then the non-payment of the licence fee by the infringer is the only wrong done to the patentee. The only cases in which the measure of the patentee's damage is the amount of the infringer's profit are when the invention is of some new machine, or a new form of any kind of known machine, which is itself a distinct species of machine or manufacture, is more valuable, or can be put into market cheaper, so as to supersede or exclude other machines or manufacture of the same genus, and when the
182 profit of the patentee consists in a complete monopoly of the right to make and vend the new machine or manufacture as a unit, and in the exclusion of all competition. In such a case the only measure of damage in a court of equity is the amount of profits made by the infringer, and it is in such cases that the injured party should seek his remedy in a court of chancery, where he can have a decree for an account, and an injunction to protect his monopoly? But it is plain that a patentee whose invention is only valuable because used by all who pay a licence fee, and who suffers no other wrong than the detention of such fee, has fixed his own measure of compensation, and needs none of the remedies which it is the duty of the chancellor to give for his protection. An injunction would do him no good; an account is not wanted; and the only remedy to which he is entitled being a judgment for a given sum of money, with interest, a court of law is his proper resort, where, also, he may recover a penalty to the extent of treble damages, if the judge see fit to in-
183 flict it. An injunction is never granted vindictively, but only where it is necessary to protect the rights of the complainant; an account cannot be required unless where a knowledge of the profits

made by the infringer is necessary to a just determination of the controversy. Although the statute gives original cognizance of patent controversies equally to courts of equity as to courts of law, and consequently the chancellor may decide a controversy as to infringement without requiring a previous verdict in a court of law, yet it does not follow that all distinction as to the remedies granted by each tribunal is to be abolished. A court of law cannot issue an injunction, nor a court of equity take jurisdiction to enforce a penalty, or merely punitive damages; each court will give the remedy peculiar to its own functions. The remedies of a court of chancery are by injunction and account; penalties and vindective damages can be recovered only in courts of law.

184 The case of Dean *vs.* Mason (20 Howard, 203) was one where the monopoly of use of a patented machine (a planing-machine) in a particular county had been infringed. It is said in such a case that the rule of damages is the amount of profits recovered by the unlawful use of the machine, as this, in general, is the damage done to the owner of the patent. The court afterwards say: "Generally, this is a sufficient to protect the rights of the owner; but when the wrong has been done under agravated circumstances, the court has the power, under the statute, to punish it adequately by increasing the damages." This is no doubt correct as a general proposition, but the question whether a chancellor would interfere to punish parties by assuming the functions of a common law court, and whether the remedies given in a court of chancery should not be such as are peculiar to that jurisdiction, was not before the court.

185 These remarks as to inflicting penal damages, though a little out of regular order, have been made in answer to an argument of the learned counsel in this case, in which he questions the correctness of our remarks on this subject in the case of Saunders *vs.* Logan, 9 Amer. Law Reg., 477.

The great question of the case now recurs: Is this Janus-faced lock a peculiar and distinct machine, introduced into market as a cheaper and better article than other machines, without the peculiar characteristic of the patented one? Does the value of the patent to its owner consist in the close monopoly of the right to make and sell this species of lock as one individual machine? Has it peculiar characteristics which distinguish it from other machines of the same genius, and which gives it a peculiar value in the market? If so, the complainants have a right to demand that the defendants, having infringed their exclusive right to make and sell the peculiar machine or manufacture, are justly liable to refund all the net profit made by such infringement.

186 If, on the contrary, the patent is for some addition or improvement on an old, well-known implement, or some separate part or device thereof, of small importance compared with the whole; if the licence to use the improvement or addition was sold as separate and distinct from the whole machine, the measure of damages would be the price of a licence, and not the profit made by the exclusive right to make and sell the whole machine.

The history of this invention, its object and results, are fully stated

in the case of Livingston & Co. *vs.* Jones & Co., Philadelphia Legal Intelligencer, vol. 18, between these same parties, where the originality of Sherwood's invention was assailed; and are given again here in the reporter's statement.

The claim of Sherwood's patent was for "making the case of door-locks and latches doubled-faced, or so finished that either side may be used for the outside." The arrangements of the internal parts
187 of the lock, and devices necessary to such a lock, are set forth in the specification. They were rather complex, and required that in order to change the lock from a right to a left hand lock, that it should be reopened and some change made in the position and arrangement of the internal parts. For the purpose of the present discussion, it is unnecessary to describe these devices. The name "Janus-faced" locks was given to this machine to distinguish it from others which had not its peculiar qualities.

Now, it is evident that, although the patent of Sherwood may be said to be an improvement in the manufacture of locks—a well-known implement or machine—nevertheless, the lock contrived by him was a new and distinct species, having certain qualities different from all other locks; that the Janus-faced lock is a specific article (although of the genus lock) known in the market, having peculiar value, and that the value of the monopoly granted by the patent consisted in the exclusive right to manufacture this peculiar machine without any
188 competition, and have all the profits of such a monopoly. The defendants have made large gains by trespassing on the rights of the complainants. The profits he made by this trespass justly belong to the true owner. They have partaken equally with the complainants in the profits of the monopoly granted to them alone, without license and in defiance of their rights. The only measure of redress to which the complainants are entitled is an account of the actual profits made by respondents. It has been argued that this is not the full measure of compensation for the injury done to complainants, but it is all that can be made matter of account in equity, all that is specifically claimed in the bill, and all that comes properly within the sphere of the remedies administered by a chancellor.

The machine being a unit, a specific article, well known in the market, having peculiar value because of the patentee's discovery or invention, the attempt to arbitrarily divide the profits of the monopoly of the whole machine among its parts is without precedent,
189 and receives no countenance from the case of Seymour *vs.* McCormack.

Let a decree be entered for complainants for the sum of thirteen thousand two hundred and eighty two $\frac{92}{100}$ dollars, ($13,282 92,) and costs in this case, and for one cents in the case of Adams *vs.* Jones, *et al.* No. 2 of May term, 1858, without costs.

To this decree of the said circuit court the respondents pray an appeal to the Supreme Court of the United States, which is granted upon condition of respondents given security in the sum of twenty thousand,

to prosecute their appeal with effect, and answer all damages and costs if the shall fail to make good their appeal. By the court.

H. SPROUL, *Clerk.*

Bond and security to the satisfaction of the court filed.
Record sent to Supreme Court.

190 UNITED STATES OF AMERICA,
*Western District of Penn'a, ss:*

I, Henry Sproul, clerk of the circuit court of the United States for the western district of Pennsylvania, in the third circuit, (at Pittsburgh,) do hereby certify that the foregoing is a true exemplification of the record in the foregoing case, as the same remains on file and of record in this court.

In testimony whereof, I have hereunto subscribed my name and [SEAL.] affixed the seal of the said court, at Pittsburgh, this 22nd day of October, A. D. 1862, and of the independence of the United States the eighty-seventh.

H. SPROUL, *Clerk.*

Filed October 24, 1862.

The part in Capital is Common to improvements,
The part in Italics is all that appl
subject matter of such claim. The re
applies to improvements not in Contro

# SPECIFICATION

## OF THE RE-ISSUED PATENT TO JOHN P. SHERWOOD,

DATED OCTOBER 7, 1856.

---

### THE SCHEDULE REFERRED TO IN THESE LETTERS PATENT AND MAKING PART OF THE SAME.

TO ALL WHOM IT MAY CONCERN :

BE IT KNOWN, THAT JOHN P. SHERWOOD, OF SANDY HILL, WASHINGTON COUNTY AND STATE OF NEW YORK, HAS CONTRIVED AND INVENTED SOME NEW AND USEFUL IMPROVEMENTS NOT KNOWN OR USED BEFORE, IN THE CONSTRUCTION OR MANUFACTURING OF DOOR LOCKS OR CASED FASTENINGS, IN WHICH THE MOVEMENTS ARE CONTAINED BETWEEN THE SIDES OF THE CASE AND THE FOLLOWING IS AN EXACT AND FULL DESCRIPTION THEREOF, REFERENCE BEING HAD TO THE ACCOMPANYING DRAWING, WHICH FORMS PART OF THIS SPECIFICATION. EVERY PART OF MY FASTENING MAY BE MADE OF CAST IRON, AND FOR MOST PARTS IT IS THE CHEAPEST MATERIAL.

*My first improvement is in the case E, figure* 6, *which I make double faced, each face projects over the sides and back end; the front end has no lip or projection on like ordinary cases, but its edges are plain, and covered by the two face plates; the aperture for the bolt in the front end of the lock is as wide as said end, so that the moulder may dispense with setting a core; and a stay marked S (with the screw-holes through it), from* $\frac{3}{4}$ *to* $1\frac{1}{2}$ *inch wide, and from*

*1½ to 3 inches long, rises on the lower front corner of each face, protecting the bolt-hole.*

*This improvement facilitates and cheapens the casting of a case by lowering the sides and ends and doing away with the setting of a core. It also fits every outside case for either a right or a left hand door, without turning the lock or latch upside down, and it renders the lock stronger and more durable. A glance at the drawing shows its peculiarities and their use. The inside of the case is cast with common fixtures—such as friction plates, studs and braces—to keep the bolt and other detached pieces in their respective places.*

My second improvement is in making the bolt with notches, one on its lower, and one exactly similar on its upper edge, so that in connection with the vibrating or connecting bar A, a horizontal motion is given to the bolt, and also adapts it by simple reversion to a right or left hand door. Each is cut perpendicularly, and extends through one-third part of the bolt, reducing the bolt in the centre between the two notches to one-third of its original size. Figure 1 shows *the bolt* with its two similar and opposite notches *a*, *a*, its back end *b*, forked so that it may pass a screw and its front end *c*, bevelled to make one bolt answer for both lock and latch. Fig. 2 exhibits the vibrating or connecting bar *A*, for moving the bolt, which is a very irregular shape, and nearly fills the upper half of the case.

Its lower front corner *d*, projecting downwards, is made to fit in the notch *a* on the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner, *e*, shows a small hole for a screw, on which it vibrates, and near by, *f* shows a large one for the handle. Nearly all of the back end of this bar is made quite thin as at A, leaving space between it and the case on one side for one sliding-car or impelling weight, and on the other side for two sliding-cars hereinafter described.

On each side of this bar are three studs, *g*, *h*, *i*, in height equal to the original thickness of the bar, and a curved key guard, *k*, not quite as high as the studs which shield the locking car. Stud *g*, is at the lower back corner, *h*, near the centre and *i*, above and back of *h*. Each stud on one side has a corresponding stud similar and similarly situated

on the opposite side; *h*, and *i*, form an inclined track, or way, *i*, being placed obliquely above *h*, towards the front end of the case, and as the corresponding studs on the opposite side of the bar form a similar track, or way, we have a double inclined track, or way, for the safety cars (hereinafter described) to pass up and down.

A little above the corner stud, *g*, a notch, *l*, opens upon the back end of the bar towards a point below the centre stud, *h*, a passage way for the stud *m*, of the *double action locking car*, *B*, hereinafter described.

Figure 3, represents the double action locking car, *B*, of which the exact form can only be learned from a model or drawing. It is a thin plate with a stud, *m*, near one corner on one side, and a much shorter stud directly opposite on the other side. These studs add power to this car, and connect it *with safety cars*, G $G^2$, hereinafter described, in a way that holds the three cars fast together when locked.

The large notch, *n*, gives room for the double action locking car, *B*, passing the stud, *h*, of the connecting bar, A. The sides of this notch, *n*, are in one part horizontal, and in another oblique or inclined. In one part of its *movement* on the studs *h*, and *g*, of said connecting bar, it is horizontal, and in another inclined. The studs *h*, and *g*, of the vibrating or connecting bar A, thus become at different periods a horizontal, and an inclined track or way for the locking car, *B*, to move upon. The small notch, *o*, admits the key (figure 5), by which the car is moved.

An acute angular projection, *p*, near stud *n*, catches under a stud, *D*, on the side of the case, *E*, when locked (as seen in figure 8), and fastened to the car. The locking is effected by a compound and backward movement of this car, *B*, which is new and peculiar to my lock.

Another car exactly like this, and with similar action, may be attached to the other side of the connecting bar, if greater security be desired.

*G*, (figures 4 and 7), shows the shape of the two safety cars, which are exactly alike, except that one, $G^2$ (figure 7), is twice as thick as the other, and the thicker one has a groove, *H*, over the key guard, *k*, of the connecting bar, *A*. A notch, *q*, in each of these cars, G, $G^2$, receives one of the studs, *m*, of the locking car, *B*, when unlocked, as seen in

figure 6; and *r*, is a long opening for the studs *h*, and *i*, of the connecting bar.

In size, one of these cars, *G*, is nearly twice as large as the locking car, B. One is on each side of the connecting bar, *A*.

The double action locking car lies in a cavity of the connecting bar, and under the thinnest safety car G ².

The safety car always moves on the double inclined track or way before described, and in a direction opposite to that of the locking car. They add strength and stability to the locking car, and prevent the locks being picked.

In the process of locking, the key is turned back instead of forward as in other locks, the safety cars rise simultaneously to their utmost height; the double action locking car then moves horizontally a short distance, after which it descends towards the back end of the case, upon its inclined track or way formed by studs *h*, and *g*, the safety cars at the same moment descending towards the front end of the case on the double inclined track or way formed by studs *h*, and *i*, before described, until each reaches its lowest point, and there all three combine in firmly holding both the vibrating or connecting bar and bolt fast, as represented in fig. 8, which shows the bolt as locked, the projection *p*, being locked under stud *D*, and the safety car *G*, having dropped down behind stud *m*, which locks the whole together. To unlock the bolt the safety cars *G*, must be first raised. Fig. 5 represents the form of the key.

In locking, the aperture *v*, *v*, of the key passes around the guard *k*, of the connecting bar *A*, and the bit *u*, raises the safety car *G* ², while at the same time the bit *t*, entering the notch *o*, of the double acting car, strikes the back side of the notch, and moves the locking car *B*, at first horizontally, and then in a descending, backward, oblique, or inclined direction, until the projection of the car becomes fast under and against stud *D*, and holds the connecting bar *A*, and bolt *c*, stationary. In unlocking, a reverse movement is necessary, first raising the safety cars as before stated.

WHAT I CLAIM AS MY INVENTION, AND FOR WHICH I DESIRE AN EXCLUSIVE RIGHT BY LETTERS PATENT, *is making the cases of door locks and latches double faced, or so fin-*

*ished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door substantially as described.*

I also claim the peculiar construction and double action (upon an inclined and horizontal track or way) of the locking car *B*, as hereinbefore described, and the combination of the locking car *B*, and safety cars G, $G^2$, with one another and with the connecting or vibrating bar and bolt A, as within described, so as to fasten the bolt *c*, securely, and prevent its being picked. I also claim so constructing the bolt, as hereinbefore described, that by simply turning it over in the lock case, it is adapted to a right or left hand door.

JOHN P. SHERWOOD.

Witnesses—

H. P. HAMBLIN,

W. BAKEWELL.

# U. S. Supreme Court.

**No. 165.**

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK AND ALEXANDER NIMICK, PARTNERS, DOING BUSINESS UNDER THE NAME OF JONES, WALLINGFORD & CO.

*Respondents and Appellants,*

*vs.*

JAMES K. MOREHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS AND DAVID McKEE, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF LIVINGSTON, COPELAND & CO.,

*Complainants and Appellees.*

# APPELLANTS' BRIEF.

GEO. GIFFORD,
*Counsel for Appellants.*

NEW YORK:
WM. C. BRYANT & CO., PRINTERS, 41 NASSAU STREET, COR. LIBERTY

1864.

# U. S. Supreme Court.

J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, partners, doing business under the name of Jones, Wallingford & Co.,
Appellants,

*vs.*

James K. Morehead Laureston R Livingston, William B. Copeland, Calvin Adams, and David McKee, partners, doing business under the name and style of Livingston, Copeland & Co.,
Appellees.

No. 165.

This was a suit in equity on a patent originally granted to John P. Sherwood, December 17th, 1842; re-issued to his assignee, Calvin Adams, May 13th, 1851, and again re-issued to Sherwood, October 7th, 1856, and extended, December 15th, 1856.

The first claim of the re-issued patent is the only one claimed to have been infringed by appellants, and this claim is to an improvement which was not claimed at all in the original patent, but was first covered by a re-issue to the assignee.

The questions to be submitted to this Court are—

*First.—Was John P. Sherwood the first inventor of the improvements claimed in the re-issued patent?* and

*Second.—Does or does not the decree cover more than the profits on that part of the patented invention used by the appellants?*

Although these are the main questions, yet as there was a preliminary controversy in the Court below as to the title and ownership of said patent, and as the learned justice who decided the case in the Court below made some allusion in his opinion, to proceedings which had taken place respecting the title, a statement of the facts respecting the title may be of use.

On the 4th day of December, 1857, the appellees, as assignees of the extended patent, filed a bill against the appellants for an alleged infringement of the patent.

On the 18th day of February, 1858, the appellants filed an answer in which they claimed that they were the owners of the extended patent, and admitted its validity.

On the 15th day of March, 1858, the appellants filed a cross-bill on said patent against the appellees, as infringers thereof in which they admitted the validity of the patent and claimed under it.

On the 3d day of May, 1858, the appellees filed their answer to the cross-bill, admitting the validity of the patent, and claiming to be the owners of the patent.

Testimony was taken on the part of the appellees to prove their title, from which the appellants discovered that they had been deceived and defrauded by Sherwood, the patentee, who had assigned the extended term of the patent to the appellees before he had assigned it to the appellants, and that although the appellants had purchased the extension of Sherwood and paid him for it, and had taken an assignment of it, yet as a prior assignment had been made by him to the appellees, they could not hold the patent.

The appellants having also discovered that Sherwood was not the first inventor of the improvement claimed by the first claim of the patent, being the only one they had used, applied to the Court (Rec., page 97), for leave to withdraw from the record their admission of the validity of

the patent, and to amend their answer to the appellees bill, by denying that Sherwood was the first inventor, and setting up prior inventions thereof by others. This application, after argument, the Court granted. (Rec., p. 99.)

The appellants accordingly amended their answer. (Rec., p. 98.)

To show that the appellants had no knowledge or notice of the right or claim of the appellees to the extension, and supposed that they were the owners thereof, the following abstract of title is submitted :

The transfers and proceedings respecting this patent were as follows :

| | |
|---|---|
| Sherwood to Adams. | Assignment of whole Patent *not in evidence*, but referred to in Ex. "B," Rec., page 61, Appellees' Test'y, as being made Nov. 1850. |
| Adams obtains a re-issue : | May 13th, 1851, 2d part of Rec., page 27, Appellees' Test'y. In this the double face is for the first time claimed. |
| Sherwood to Adams. | Assignment respecting an extension. Blank day of Oct., 1855, Ex. "A," Rec., page 61, Appellees' Test'y. *This was not recorded.* |
| Sherwood with Adams. | Agreement about extension, and to assist in getting extension. Exhibit "B," Rec., page 61, Appellees' Test'y., no date, but found to be executed Oct., 1855, see page 41, Appellees' Test'y. *This was never recorded.* |
| Sherwood applies for an extension | First applied Oct. 18th, 1855, Rec., page 62, Appellees' Test'y. Cancelled Oct. 7th, 1856, Rec., page 64, Appellees' Test'y, Exhibit "U," H. Sproul. The accounts on applications for extensions are never recorded, but only filed, and are neither intended to be or operate as notices affecting the title. |

| | |
|---|---|
| Adams to Sherwood. | Assignment of original Patent, 16th Sept., 1856, Exhibit "B," Rec., page 65, Appellees' Test'y., but actually made Sept. 24th, 1856, see Bakewell's Test'y., page 53, Appellees' Testimony. *This assignment divested Adams of all right and interest in the Patent and invention, and was recorded Sept. 26th, 1856, see pages 45 and 65, Appellees' Testimony, and was before Jones purchased.* |
| Sherwood to Adams. | Assignment of extension, Sept. 24th, 1856, *This assignment was not recorded until the 16th day of Dec. 1856, being two months and twenty-two days kept from the record, and during this time it was that Jones made his purchase from Sherwood without notice or record to guide him to the contrary.* |
| Sherwood withdraws first application for extension. | Oct. 7th, 1856, Rec., page 47, Appellees' Test'y. |
| Sherwood applies for re-issue | On same specification and claim as Adams got in 1851. September 26th, 1856. Rec., page 68, Appellees' Test'y. |
| Re-issue granted to Sherwood | October 7th, 1856. Rec., page 56, Appellees' Test'y. |
| Sherwood makes second application for Extension. | October 7th, 1856. Rec., page 47, Appellees' Test'y. |
| Sherwood to Jones. | Assignment of the patent for the whole extended term, first made December 2d, 1856.<br>At the time of this purchase the records of the Patent Office, *were not only neutral and silent on the subject, but showed Sherwood to be the sole owner of the patent.* |

| | |
|---|---|
| Extension granted | December 15th, 1856. |
| The Sherwood assignment to Adams, dated Sept. 24th, 1856, as above mentioned. | Recorded December 16th 1856. Being two months and twenty-two days after Adams had declared on the record, by his assignment being there recorded, that he had ceased to own any thing in the patent, although all this time claims to have held the assignment of the 24th September, 1856, and being fourteen days after the purchase by, and assignment to Jones, as above. |
| Sherwood to Jones. | Second assignment made December 18, 1856. This assignment was made after the extension, pursuant to the one previously made to convert the equitable into a legal title. The purchase was made at the time of the assignment of the 2d of December, 1856. |

Adams told Hamblin that he did not want it to be known that Sherwood re-assigned the extension to him. Hamblin in his testimony, (Rec., page 95,) states that he did not give Jones any information of any assignment or transfer by Sherwood to Adams.

Appellees allege that the appellants knew the patent was in their possession on the 18th of December, 1856, when second assignment was made to Jones, but there is no pretence that there was possession or knowledge of it when he made the purchase.

This second assignment to Jones, which was after the extension, was to give him *legal* title pursuant to the assignment made before the extension.

In December, 1856, this patent was about to expire, and Sherwood, the patentee, having made an application for an extension, and expressing himself desirous of selling the extension to appellants, and assuring them that no one had any claim on the extension, and the *records* of the Patent Office showing that he *was the owner* of it, induced the appellants to take up the subject, and through the senior member of the firm to negotiate relative to the purchase. (As to the records of the Patent Office, see Exhibit "B. H.

Sproul," Rec., page 64, Appellees Testy.) On their making further inquiry, not only of Sherwood himself, but also of his attorney in his (Sherwood's) native place, and where he then resided, and who had attended to his business touching the patent, and also of a Justice of the Peace in the same place, who had been present at or participated in some of Sherwood's previous arrangements about the patent, and the effect of all the information they could get being that Sherwood was the owner of the extension, and that no other person had, or pretended to have, any claim thereto, and nothing appearing to the contrary on the records of the Patent Office, they proceeded to purchase, and *did purchase*, and did *pay for*, the extended term of the patent.

Thus, as it appears, these appellants used proper diligence, and exhausted all probable sources of information on the title, and, finding nothing against it, became *bona fide* purchasers thereof for a valuable consideration.

On the other hand, it appears that Sherwood, the patentee, was carrying out a fraud upon the appellants to cheat them out of their money, while *Adams* was in intimate and *concealed* negotiation with him without making known his position either on the records of the Patent Office, or in any other way, to prevent this fraud upon appellants. But, from some cause or motive not explained as consistent with honesty, kept his true position in the matter a secret, and cautioned others to help him do so.

The appellees, in their bill, *charged* the appellants with a knowledge of Adam's title to the patent for the extension; but this the appellants *distinctly and unconditionally denied* in their answer, and the appellees *entirely failed to prove their allegation*. On the contrary, the appellants proved—so far as a negative is susceptible of proof—that they had no such knowledge or information whatever, but in their efforts to get information were informed that Adams had no claim to the extension whatever.

See the pleadings, Rec., fols. 29 and 31, and the testimony of H. P. Hamblin, Rec., fol. 148, and N. McIntyre, Rec., fol. 149.

Thus the matter stood, and appellants prepared for and

commenced to manufacture and enjoy what they had bought, when suddenly they found themselves sued for doing so, and this is the controversy now before the Court.

After the commencement of this suit, appellants, having full confidence in their title by their purchase, and not believing it possible that they had been so cheated, conceded the novelty of the invention, and that they had made locks employing the double face, not at that time considering either of those questions important, as the controversy, as it was then pending, was only upon the title of the respective parties.

With this notice of the circumstances under which the appellants were led into the manufacture of the locks which are alleged to be an infringement, the principal questions in controversy on this appeal may be taken up. One of these is a defence which the Court below granted the privilege to the appellants to make by an amendment to their answer (See Rec., p. 99); the other arises on the amount decreed as profits.

## II.

SHERWOOD, THE PATENTEE, WAS NOT THE FIRST INVENTOR OF THE ALLEGED IMPROVEMENT CLAIMED IN THE FIRST CLAIM OF THE RE-ISSUED PATENT ON WHICH THIS SUIT IS BROUGHT.

1st. This is a claim for an improvement in *cases* of locks without latches, and of latches without locks, and of both locks and latches together. The claim so reads, and such is the whole tenor of the specification. The generic expression of the thing, and indeed the one used in this very claim, is a "cased fastening." The claim says "lock, or cased fastening," meaning as plainly as language can express it, that it may be a door lock, or any other cased fastening.

2d. This claim is to an improvement in a *case* of the "fastening," consisting specifically of a *double face*,

that is, having both sides so *cased* that either can be placed outward.

This claim has nothing to do with anything but the *case*, and it has nothing to do with any part of the case except its *sides* or *faces*, and that *only* in so far as to make both sides *suitable* for the *outside*.

3d. This claim states both what *constitutes* the *thing* claimed, and also the *purpose* of that thing, so that one can identify the thing claimed, both by what it is declared to be, in the claim, and also by what is therein declared to be its *function*. Even in the statement of what is claimed, there is a two-fold expression of it: first, the patentee says that he claims making the "case double-faced," and then, to further explain what he means by that expression, he says, second, "or so *finished* that either side may be used for the outside."

These two forms of expression, being used in the alternative, mean the same thing, and nothing more and nothing less.

Now these statements of what is claimed, are unequivocal and distinct, and even if either of them stood alone in the claim, its meaning could not be misunderstood. They are limited to what appertains to the exterior of the two sides of the case, and do not extend to any other part of the lock or fastening.

4th. But the claim does not even stop here, that is, it not only declares what is its *subject matter*, but it also goes on, and states what such subject matter is *intended for*—what is to be its *function*—*wherein*, and how it is to be used and be useful, that is, to produce a fastening capable of application to a door swinging either to the *right* or to the *left* (and this substantially as described), that is, by reversing or turning the lock *laterally*, instead of *vertically*.

Changing the order of these sentences in the claim, the inventor says in substance, thus: first, I want a fastening that will answer for a door swinging either to the *right* or to the *left*; second, to produce it, I must finish

it so that *either* side may be used as the *outside;* third, to so finish it, I must make it *double faced.* Having said this, and done it, he then says: The *thing* I mean to patent is, having *two faces* or *two sides, either* of which will answer for the *outside* as well as the other.

5th. This claim is, therefore, not limited to any particular *way* or *manner* of making a face on each side of the lock, nor is it limited to any particular *kind* of face, nor is it limited to any particular kind of *finish;* it asks only for *two faces,* no matter how made, no matter what *kind* of faces, no matter *how* finished; so far as any limitation in this claim is concerned, each of these two contemplated faces may look *worse,* and have a more unsightly appearance than even the *back* of any lock ever known, and yet, if entirely cased on each side, the case still would be within the claim, because, it is not limited to any of these particulars; there is no suggestion as to how well it is to appear; there is no limitation whatever in the claim, except a limitation as to the *function* which the thing is to possess in the aggregate when finished; that is, what it is to be competent to do; that is, to go equally well on a door swinging either to the *right* or to the *left,* and with the same effect and action on one as on the other, and this "substantially as described."

6th. The words "substantially as described," are a limitation to the *function* which this improved door fastening is to have, that is, it is to be a thing when done, which "substantially as described," will answer for a door swinging one way as well as the other; the words "substantially as described," when referred back to the descriptive part of the specification are explained, that is, it is to be a fastening which is not only applicable to a door swinging either way, but it must be capable of being so applied "substantially as described," that is, without reversing it *vertically,* or getting the key hole the *wrong end up,* or deranging any of the interior works by such reversing; on the contrary, it must be done, and done only by reversing it *horizontally,*

and the double-cased fastening must be such as to admit of that kind of change, and then and not till then, it will answer for a right or left hand door *substantially as described.* If it were a double-faced fastening capable only of being reversed *vertically*, although *having a double face*, it would not be within the claim, because it would be incapable of the operation, and it would not possess the function which is assigned to the thing claimed, and to which the thing claimed is limited, that is, its application to a door swinging either way by *reversing it laterally.*

7th. The appellants have proved that the alleged invention, covered by the first claim of the Sherwood patent, was known and in public use prior to the invention of the patentee. They have proved six different prior uses of locks in the city of New York: *one* on the gate of the Custom-House; *two* on the gates of the City Hall; *two* on gates of the City Hospital, and *one* on a gate of St. Mark's Church.

*First.*—The Custom House lock has been in use for about nineteen years near the corner of Wall and Nassau streets, in the city of New York, being one of the most public places in the United States. The age and public use of this lock is proved by the celebrated lock manufacturer, S. S. Day, who made and applied it, and by Patrick McCaffrey, a keeper in the Custom House, who has been in constant use of it for about fifteen years.

See Rec., page 80 and 85.

This Custom House lock has the features covered by the first claim of the patent. It is *cased* both sides, and so cased as to be equally applicable to a *right* or a *left* hand door, by turning it only *laterally* and without reversing it *vertically* or having the keyhole the *wrong end up.* It is, therefore, submitted that this lock contains identically what is claimed in the first claim of the Sherwood patent, and pessesses

identically the functions which the patent assigns to the thing covered by that claim.

*Second.*—The age and public use of the two City Hall locks on the gates of the City Hall in the city of New York are proved to be nineteen years. This is proved by Sarah Huring, Rec., page 78, fol. 129. These two locks are cased both sides—the works being entirely enclosed—one side answering for the outside as well as the other—reversible *laterally* so as to be applicable to a door swinging either to the *right* or to the *left*, in form and construction the same as to the faces, as is covered by the first claim of the Sherwood patent and possessing precisely the same *function* of case as is therein ascribed to the alleged patented invention.

*Third.*—The Hospital locks are proved to have been in use, *one* of them on the Broadway gate of the yard of the City Hospital, and the other of them on a gate opening from the passage way to the Hospital into the keeper's lodge, surely among the most public places in the United States, and entirely exposed to view for over *nineteen years.* This is proved by John L. Roome, Rec., page 79, fol. 130.

These two locks have cases entirely enclosing the works, finished on both sides so that either side will answer for the outside, and one of them precisely the same on one side as it is on the other.

*Fourth.*—The St. Mark's Church lock has been in use on the front and entrance gate of the churchyard, where multitudes have been going out and in, for the last nineteen years. The age and public services of this lock are proved by Chauncey Brady and Joseph Robinson, Rec., pages 76 and 77, fols. 127 and 128.

This lock, while in use, was cased or entirely enclosed on both sides, the plate of one of the sides however was adjustable and first applied to the gate, and the lock was then applied to the plate whereupon it became and was a side or face of that side of

the lock, but the attachment of it being such that the front of the case and rims could be removed from the back.

The substantial identity of all these locks, as to their cases or double faced character, with what is claimed by the first claim of the Sherwood patent, and the identity of the function given thereby, to what is stated by said claim to be the result of Sherwood's improvement in the case, are proved by S. S. Day, Henry B. Renwick, Amzi Hile, Andrew Patterson, John M. Fredericks and Charles Ballinger.

*S. S. Day*, Rec., page 85, for many years an extensive lock manufacturer, and the maker of the Custom House lock, says: That so far as the case is concerned, it was made applicable equally to a right or a left hand door, but that the *latch* bolt being a beveled bolt, would have to be changed, or have the bevel reversed if the lock should be changed from a left hand to a right hand door, but that *no change* would need to be made in the *lock bolt or case.*

This is precisely *the same* as the lock described by Sherwood. He sets forth in his patent, that to reverse the lock, that is, to change it from a *right* to a *left* hand door, at least two things are necessary: 1st, to have the lock enclosed by a face *each side*, so that when turned around it will make a proper appearance, and not expose unprotected its interior works, in whole or in part, and 2d, to have the *bevel of the latch bolt reversed.* The only difference in the two locks is, that Sherwood had a way of *disengaging* his latch and *reversing* it so as to turn the bevel in the bolt in an outward direction. But this bolt arrangement he *claims in a separate and distinct claim*, and it has nothing to do with the subject matter of the first claim.

*Henry B. Renwick*, Rec., page 88, a mechanical engineer of great distinction, for a number of years a *chief examiner* in the Patent Office, and now the United States inspector of steamboats, for the port of New York, was called to make a careful and critical examination of these

locks and of this subject, and when interrogated as to these old locks he says:

> "All the locks are what I should call *double faced* locks, the faces on both sides being so finished that either may be placed outward, and the cases of all of them protect the works equally well, which ever side is turned outward, and the holes through the case admit of the locks being applied equally well, with either face from the door."

> "In the City Hall, two locks, the same in outward appearance and casing, are actually applied, the one to a right hand and the other to a left hand gate, thus showing that they are applied in the manner set forth in the question."

Then in answer to a question as to how those old locks "correspond with what is set forth as the invention of Sherwood, in the patent, respecting their faces or cases, or being applicable to either right or left hand doors, or being double faced or finished on both sides, or adapted and finished to have either side out."

This witness says:

> "All the locks enumerated in the question are double faced, and so finished that either side may be used for the outside, so that the same lock may be placed either on a right or a left hand door without turning the key-hole upside down, and in this respect they correspond substantially with the case described as of Sherwood's invention. This statement being qualified only by the consideration that the Custom House lock is considered as being changed, as described in the previous answer. If anything, the locks named in Hiles' testimony have their faces better finished for the purpose than Sherwood's locks, which is specially described in his specification, as that has a projection or protuberance on both faces, which would be objectionable, and in this rispect there is want of correspondence between it and the cases of the other locks."

*James H. Bull*, (Rec. page 86,) a machinist also called to examine these old locks in the city of New York, and

to compare therewith the models made form them, so as to transmit a representation of them to the Court, gives a full and detailed description of them severally; and in answer to the 5th question, Rec. page 87.

> "How are all the locks referred to in your last answer as to being double faced, and adapted by their finish and otherwise to both right hand and left hand doors and gates?"

He says:

> "They are all double faced, and are adapted by their finish so that they may be applied to either a right or left hand door, and have all evidently been made for the purpose of presenting both faces to view. When I speak of finish I have reference to their cases.'

And in answer to the question, page 88, folio 140.

> "State whether or not you find any thing described in that patent respecting the cases of door locks, or door fastenings, or door latches, adapting them for both right hand or left hand doors, or for being used either side out, which are not in the locks referred to?

He says:

> "I do not find anything described in that patent which I do not find in these locks in reference to what is mentioned in the question."

*Amzi Hile*, (Rec., page 80,) a carpenter and architect, both professions bringing him in intimate connections with the use of locks, and the maker of the models in evidence, respecting the Custom House locks, says:

> "As far as the side plates are concerned, it is adapted to a right or left hand door."

And respecting the City Hall locks, he says:

> "They are double faced—the face plates lapping

over the rims—except that one of the face plates is bent to form the rim at one end of the lock, and that they are adapted to both right and left hand doors."

And respecting the Hospital locks, he says:

"They are double faced locks, constructed in such a manner as to be used on a right or left hand gate."

He also distinctly says:

"That to change those locks from a right hand to a left hand door, or from a left hand to a right hand door, without turning the key-hole upside down, they would require no alteration."

*Andrew Patterson*, (Rec., page 90,) a pattern maker of hardware, and very familiar with different kinds of locks, after an examination of these old locks, says:

"They may be used for doors or gates, and that the cases are all so finished that either side may be used for the outside." Also, "that he cannot see that they differ in anything, as to the cases, from the alleged improvement in cases specified in the Sherwood patent, as they are so constructed that either side may be used for the outside, whereby the same lock or case fastening is rendered applicable to a right or left hand door."

*Charles Ballinger* (Rec., page 91), machinist and glass-mould maker, after examination of these old locks, says:

"Such locks are for gates or *doors*, and that they contain substantially what is specified as Sherwood's improvement in the first claim of his patent."

*John M. Frederick* (Rec., page 93), carpenter and pattern-maker, of Pittsburg, says:

"These old locks are double-faced, or so finished that either side may be used for the outside, so that the same lock may answer for a right or a left hand door without turning the lock upside down, or changing any of its parts."

Exact models of the cases of these old locks are in Court as well as some of the locks themselves, and an occular examination of them will show most satisfactorily to the Court how they were cased.

This evidence on the part of the appellants, the appellees have attacked and attempted to avoid, but their complete failure, in view of the energy of their attack, only the more clearly and fully illustrates that the facts as proved are, in their estimation, fatal to their case.

In their attempt to modify this state of facts they call *three* witnesses to further explain these old locks. These witnesses are: A. H. Ahlborn, W. Bullock and Turner Strobridge.

The direct examination of these witnesses shows a studied effort to keep away from the issue, and to decoy the attention into irrelevant matters.

*First.*—There appears to have been a special effort to prove by these three witnesses, that although the Custom House locks as to faces or cases were sufficiently adapted to either a right or a left hand door, yet that if so employed and turned, the bevel of the latch bolt would have to be changed, or the bolt so beveled would have to be turned over. Why should the appellees have tried to prove that fact when it had been distinctly stated in the testimony of at least four of the appellant's witnesses, Renwick, Bull, Hile, and Day, the last of whom was one of the firm who made the lock and put it upon the Custom House gate.

Now, the simple fact is, that the *same necessity of changing the bevel* of the latch-bolt, or the position of the bolt having the bevel, exists in the Sherwood lock also; and his *specification sets forth* an internal arrangement of the machinery of the lock for taking out the latch-bolt, and turning it and replacing it in the lock with the bevel in a direction opposite to what it was.

But this appertains exclusively to the *internal* arrangement of the lock, and has nothing whatever to do with the matter in controversy—that is, the subject

matter of the first claim which appertains exclusively to the *faces* or *sides* of the case; on the contrary, this internal arrangement for reversing the bolt constitutes a distinct and *separate division* of the subject matter of the patent, and forms the subject and substance of *two* other and *distinct claims* in the patent.

*Second.*—Another fact which the appellees sought to prove by their three rebutting experts was, that in some of these old locks the bolt hole through the rim was not in the centre of the lock, and therefore, although double-faced and capable of being reversed and applicable to a right or left hand door, yet, after so reversed and attached to the door it might be necessary to vary the *position* of the *keeper* a little to prevent the bolt being too loose in the keeper, with one side of the lock next the door, or *striking against* the keeper when the other side was next the door. But these items needed no proof from the appellees; because, 1st, they already appeared from the testimony and exhibits of the appellants. The lock models of the appellants show exactly where the bolt holes were, and, of course, everybody knows that a *keeper* should be *adjusted to the lock*. And, 2d, this is irrelevant matter; the question is on the *double face*, not the *bolt hole*.

But this is all susceptible of several answers.

1st. Some of these *old locks* have the bolt hole through the rim at *equal distances* from their respective sides, and, therefore, if that had anything to do with the subject matter of the first claim, it is sufficiently proved to have been old.

See Exhibits and Locks.

The fact that *any one* of these old locks contained that feature, is as fatal to appellee's case as if they all contained it.

But neither the *bolt-hole*, nor the relation of *bolt* and *keeper*, has any relevancy to the matter at issue.

2d. The position of the keeper is a matter distinct from such a construction of the case as will give it a double face, so that either side is fit for the outside.

Rec., 2d part, p. 7, Int'y 6.

3d. Nor is it true that two keepers or two positions of a keeper are indispensable when the bolt-hole is not central in the lock.

Rec., 2d part, p. 8, Int'ys 10 & 14.

The only difference being, that in one position of the lock the keeper would not be as tight upon the bolt as it would be in the other position, and if it were far from central, it might, in one of the positions, be too loose, but if not far, it would be well enough in both positions.

Ex. C C, *Cross* of Ballinger. Rec., p. 92.

*Third.*—Another thing which appellees undertake to prove by their three rebutting experts is, that a piece is attached to one side of the Hospital locks (the small one, Ex. C C). From this they were about to conclude that the lock could not have been intended for both a right hand and a left hand door. It turns out, however, as proved, that the little piece in the bolt-holes, to which they attached so much importance, was no part of the lock as made and applied, but was a small piece put there as a repair.

Ex. E E, *Cross* of Ballinger. Rec., p. 92.

*Fourth.*—These appellees, grasping for straws, have also, by their experts, criticised one of the City Hall locks (Ex. E E), because it had a piece or strip of iron on one side of it; but, as proved, it turns out that this was probably put there on account of some peculiar locality, and formed no part of the lock as constructed.

And, besides, on examination of the Sherwood patent, it appears that he has pieces on the sides of his locks as constructed, and, therefore, it appears that what was only an incident on the City Hall lock, is a part of Sherwood's original structure.

*Fifth.*—Another thing they wish to prove by this trio of rebutters, and which appears to be the most favorite

and leading point in their effort to rebut is, that these old locks were not *designed* for *doors*, but only for *gates*, not that they were not applicable to doors, but that they were not *designed* for doors.

Now, of what consequence is it whether they were *designed* for doors or not, so long as they were equally applicable to doors, and to both right and left hand doors? It is not the *design* or *intention* of the patentee which can be patented, but something more tangible.

If a gate is to be claimed as being different from a door, because it is generally out of doors, and the door inside, it may be answered, that so far as such difference is concerned, the gate lock, as it is most exposed, should be best cased to protect its interior works from the weather. But the attempted distinction is frivolous. There is no difference between a *door* and a *gate*, so far as the use of such a lock is concerned; a lock having a face plate each side, so that it can be turned and used either side out on a *gate*, can be so turned on a *door*. All questions as to the beauty of the finish are to be determined by the circumstances of each case. In some instances or localities a lock on a gate would be required to have more beauty than a lock on a door; and in other localities sometimes the opposite would be true.

*Ahlborn*, is one of the appellees' three expert witnesses. The only question put to him, after the usual preliminary inquiries, is found on page 15 of Record, 2d part. "State whether any of these locks are so constructed and finished as to warrant the supposition that they were designed by the maker or makers of them to be applied to doors opening either to right or left." Rec., 2d part, p. 14.

To which he answers thus:

"I do not think they were."

As to this question it will be noticed—

1st. That it is not limited to the subject matter of the first

claim, but comprehends *everything* about the lock, including all the *interior arrangements.*

2d. The question inquires, not about the *thing*, but on the contrary, about a *supposition*, and not only about a *supposition* which alone would be bad enough in the light of any rule of evidence, but the question actually inquires about a *supposition* of the *design* of the *maker.*

Now it is of no consequance what is the *supposition* of any one as to what was the *design* of the *maker* of the lock. Nay, it is of no consequence what *was* the design of the maker, even without the supposition.

The proper and the only pertinent question is, what was the *thing* made and used, and what were its *functions* and capabilities?

Rec., 2d part p. 18. *Strowbridge*, another one of their three experts, in his testimony, seems to find four, and only four particulars, as his reasons why the old New York locks do not contain what is patented by the first claim of the Sherwood patent.

Rec., 2d part, p. 14, Int'y 18. He admits that they *might be used for right and left hand doors*, but he is troubled or feigns to be troubled with four particulars:

1st. He cannot see how one can reverse the lock C, C, (which is the small Hospital lock) without two separate keepers.

Do.

2d. He finds some rivet heads sticking out on one side of lock C, C.

Do.

3d. Lock B, B, (which is the large Hospital lock,) he thinks, has a flange on the back edge, which would prevent its being used either side out.

Do.

4th. On lock E, E, (which is one of the City Hall locks,) he finds a plate which he thinks would prevent its being used either side out.

Now, it is to be presumed that this witness has found all the fault with these old locks of which he was capable, and that all the locks which he has not pointed out any objection to are, so far as he can see, unobjectionable, that is, that they are as they have been proved by appellants.

The locks which this witness was unable to find any fault with, and which he thus concedes to be sufficient to meet the substance of the first claim, are; the Custom House lock, "Ex. A, A," the St. Marks Church lock, "Ex. D, D," and a City Hall lock.

*Wm. Bullock* is the other of appellees three experts, and was transported from New York and examined in Pittsburg. Rec., 2d part, p. 14.

There is really *no testimony* from this witness as to his opinion of *similarities* and *dissimilarities* between the cases of the old locks in evidence and the subject matter of the first claim of the Sherwood patent, because—

1st. The questions were put to him in such a way as not to call out his opinion as to substantial identity or difference on that subject.

By question 13, page 3 Rec., 2d part, he is asked, not whether the old locks were finished on both sides, but assuming such a finish, he is interrogated as to the the *purpose* of that finish. The *fact* of the *finish* the appellants insist is sufficient to meet the claim. From the 14th to the 22d questions, inclusive, he is asked to state the difference between that old Custom-House lock, from a lock, *as a whole*, containing Sherwood's *interior arrangement*. This, obviously, is irrelevant to the matter of the first claim, and naturally called out an answer relative to the *interior machinery* of the lock, instead of being limited to the *case*. So far as this witness says anything about the case of the Custom-House lock, he admits that it was *finished on both sides*. This is assumed in the 13th question to him, and in answer to the 20th question, where he is asked how it should differ if *wanted* for a right hand lock, he, in specifying all the differences does not name a single alteration to be made in the

case, but only a change in the bevel of the latch. This is a distinct admission that the *case* is all right as it is, for alternating between left and right hand doors. In answer to the 14th question, respecting difference of the *cases*, he does not say that the Custom-House lock is not *cased and finished on both sides*, but, acknowledging this, goes on only to point out a *particular way of making the finish*, and the most he can find as a difference even in the *manner of producing* the finish is that some of the corners of the lock are turned by bending the case round, and making it entirely tight, instead of cutting the case in two at the corners and lapping the edges together, thereby making a joint. Here, again, is an admission that the Custom-House lock is finished on both sides ; because the witness attempts only to criticise the manner of *constructing such finish*.

By the 17th question an effort is made to get this witness to say that this Custom-House lock is not a *door lock*, but all they can get from him is the answer, "I should not call it a door lock *now*." Obviously meaning, that under other circumstances he would call it (that is the same thing) a door lock, that is, that if the same lock were put on to a door, he would call it a door lock.

As to the lock from the front gate of the City Hospital, this witness, by the 27th interrogatory, page 5 Rec., 2d part, is asked "whether that lock is *so finished* on both faces, as to adapt it to either a right or left hand *door*;" and all the witness can answer is, that *one side* is "better finished for the outside than *the other*."

[This, is conceding that this lock was *finished on both sides*, so as to adapt either side for an outside. All the fault the witness could find with it was, that the sides were not finished precisely alike, that is, that one was better finished than the other. This, obviously, is a mere matter of taste, some would prefer one finish, and some another.

Then by the 28th question, there appears to be an effort made to get this witness to say that this lock is

not applicable to a door, but the witness can go no further than to say "*it could be used on a door.*"

As to the small City Hospital lock (Ex. C C), this witness does not say, nor did the appellees dare to ask him to say that this lock is not finished on both sides. All the criticism he makes, or pretends to make on this lock is—

1st. That the bolt-hole in the rim is nearer the one side than the other. Rec., 2d part, p. 5, Int'y 37.

But this is proved to be probably the result of a repair, and not as originally constructed and applied. Rec., p. 39.

2d. That to form the corners of the case in making the finish on both sides of the lock, the manufacturer had bent the case instead of cutting it in two, and lapping the edges. And what is remarkable is, that after this witness, in his answer to the 38th question, criticises this feature of the lock, as if to show its inferiority to the lap joint, he forgets himself, and, in the same answer, gives it as his opinion, that *that side only* which has the corners formed *by bending*, was intended for the *outside:* because of its *superiority* over the side having the *lap joints* like Sherwood. To the 14th cross-interrogatory, page 8, Rec., 2d part, this witness answers, that this lock "could be turned inside out;" and to the 15th cross-interrogatory, Rec., 2d part, page 8, he states that the side which he considered the outside was actually used on the gate as the inside. Rec., 2d part, p. 6, Int'y 38.

As to the City Hall locks, the appellants put *two* in evidence, by models; the appellees have not deemed it prudent for the interest of their case to produce more than *one of them*, or to interrogate this witness, the chief of their trio of experts, upon more than one of them, and as to this he is not asked whether both sides of the case are *finished*, but only whether both sides are finished *alike;* and the witness conceding that both sides are *finished*, thinks they *are not finished alike;* because, as he Rec., 2d part, p. 6, Int'y 47.

says, some of the corners are formed by bending the case, and others by lapping the case. He also finds a joint on one side which he says would be unsuitable for the outside; and then confesses, in answer to the 15th cross-interrogatory, that the side of this lock which he had been insisting was the *inside*, and *unfit* for the *outside*, was, as used in the City Hall, the *outside* of the lock, and for nineteen years had been the outside of the lock, and was so made, originally applied, and has continued to be so used and employed.

II.

THE DECREE IS ERRONEOUS, BECAUSE IT IS FOR MORE THAN THE PROFITS OF THE ALLEGED INVENTION. ASSUMING THE APPELLEES HAVE A RIGHT TO A DECREE, IT SHOULD BE LIMITED TO THE PROFITS ON THE CASES OF THE LOCKS.

The only invention of the appellees, alleged to have been used by the appellants is finishing the cases of the locks on both sides, and the only part of the patent which is charged to have been infringed is the first claim, which is distinctly and specifically for that alleged improvement.

It is for something done to the *case*, and not toa ny other part of the lock. Much less is it for anything done to the trimmings.

The appellants manufactured and sold the other parts of the locks as well as the cases. They also manufactured and sold the lock *trimmings*, consisting of the *keys*, the *knobs*, and the *keepers*.

The account taken by the master finds and states separately the profits on the case, the latch and keepers, the other parts of the lock and the trimmings(see Rec., p. 15), and submitted to the Court the question whether all or what part should be included in the decree against the appellants.

The Court decided, and so decreed, that all these profits should be recovered by the appellees against the appellants.

It is respectfully submitted that this was erroneous, and that only the profits on the cases should have been included in the decree.

1st. The decree should not include profits on the keys.

2d. It should not include profits on the knobs.

3d. It should not include profits on the keepers.

4th. It should not include profits on the internal works of the lock.

The complete cased fastening is made up of several parts, any or all of which may be patented, and to hold, that a patentee having a patent on only one of the parts can recover all the profits made on all the parts, is in effect holding that the profits on all the parts may be recovered several times over.

If a man having a patent on the *case* is to recover the profits on all the parts, then another having a patent for the *key* may recover the profits on all the parts, and this would be the second recovery of the profits on all the parts. If a man having a patent on the *case* is to recover the profits on all the parts, and another having a patent for the key is also to recover the profits on all the parts, then still a third patentee having a patent on the keeper may also recover the profits on all the parts, including the case and the key, and this would be the third recovery of all the profits.

If different parties holding patents severally on the case, the key, and the keeper, are to each recover all the profits on all the parts, then still a fourth party holding a patent on the internal works of the lock may also recover all the profits on all the parts, and this would be the fourth recovery of all the profits.

The patent of Sherwood covered the internal parts of the

lock, and this is the leading feature and main burden of the patent.

The decree should be for no more than the profits on the alleged improvement used by the appellants.

Livingston *et al. vs.* Woodworth *et al.*, 15 How'd, 546.

Seymour *et al. vs.* McCormick, 16 How'd, 480.

Dean *vs.* Mason *et al.*, 20 How'd, 198.

GEORGE GIFFORD,
Counsel for Applts.

I Was Sherwood
on my amendment
number

2 - amount as proofs
is too large - because
for whole back
Expenses 1842
not chargeable 1851
expense
6 Prior mentions -

447

# SUPREME COURT OF THE UNITED STATES.

## No. 165.

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, AND ALEXANDER NIMICK, PARTNERS, DOING BUSINESS UNDER THE NAME OF JONES, WALLINGFORD & CO., APPELLANTS,

vs.

JAMES K. MOREHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, AND DAVID McKEE, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF LIVINGSTON, COPELAND & CO.

GOVERNMENT PRINTING OFFICE.

# SUPREME COURT OF THE UNITED STATES.

## No. 165.

J. HERVEY JONES, ALEXANDER M. WALLINGFORD, WILLIAM K. NIMICK, AND ALEXANDER NIMICK, PARTNERS, DOING BUSINESS UNDER THE NAME OF JONES, WALLINGFORD & CO., APPELLANTS,

vs.

JAMES K. MOREHEAD, LAURESTON R. LIVINGSTON, WILLIAM B. COPELAND, CALVIN ADAMS, AND DAVID McKEE, PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF LIVINGSTON, COPELAND & CO.

RETURN TO CERTIORARI.

INDEX.


| | Original. | Print. |
|---|---|---|
| Certiorari | 1 | 1 |
| Depositions and exhibits | 2 | 1 |
| Clerk's certificate | 45 | 36 |

1 THE UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the western district of Pennsylvania, greeting:

[SEAL.]

Whereas in a certain suit in said circuit court between James K. Morehead *et al.*, complainants, and J. Hervey Jones *et al.*, defendants, which suit was removed to the Supreme Court of the United States by virtue of an appeal, agreeably to the act of Congress in such case made and provided, a diminution of the record and proceedings of said cause has been suggested, to wit:

"That the copy of the record does not embrace the testimony and exhibits contained in the printed pages hereto annexed, and numbered from seventy-nine to one hundred and twenty-one, inclusive."

You, therefore, are hereby commanded that searching the records and proceedings in said cause, you certify what omissions you shall find to the said Supreme Court of the United States, so that you have the same, together with this writ, before the said Supreme Court forthwith.

Witness the honorable Roger B. Taney, chief justice of said Supreme Court, this fifth day of February, A. D. 1864.

D. W. MIDDLETON,
*Clerk Sup. Court U. S.*

2 In the circuit court of the United States for the western district of Pennsylvania.

J. K. MOORHEAD *et al.* *vs.* J. HERVEY JONES *et al.* } No. 1, of May T., 1858.

To J. Hervey Jones, Alexander M. Wallingford, William K. Nimick, and Alexander Nimick, doing business under the name of Jones, Wallingford & Co., respondents:

Please take notice that testimony of witnesses on behalf of the complainants in the above suit will be taken in the city of Pittsburg, in the western district aforesaid, on Monday, the 21st day of March, instant, before Henry Sproul, esq., United States commissioner, (or some other competent officer,) at the office of the clerk of the circuit court of the United States for said district, to commence at 10 o'clock of that day, and to continue from day to day by adjournments, if necessary.

W. BAKEWELL,
*Solicitor for Complainants.*

Pittsburg, March 10, 1859.

Service accepted this 10th March, 1859.

STOWE & HAMPTON,
*Solicitor for Respondents.*

In the circuit court of the United States for the western district of Pennsylvania.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } No. 1, May term, 1858.—In equity.

MONDAY, *March* 21*st*, 1859.

In pursuance of notice hereto attached, the counsel of the parties appeared, Mr. Bakewell for complainants, and Mr. Stowe for respondents. The following witnesses appeared, and were examined on the part of the complainants, as follows:

William Bullock sworn:

1st. Where do you reside? What is your occupation; and what is your age?

3 A. I reside in Brooklyn, New York. My occupation at present is manufacturing printing presses. I am about forty-five years old.

2d. Have you been accustomed to the construction and examination of machinery; if yea, how long?

A. I have been accustomed to the construction and examination of machinery for a great portion of the time during the last twenty years.

3d. Have you had experience in judging of the similarities and differences in mechanical devices and machinery?

A. I have; about three years I was solicitor for inventors of patents.

4th. Have you been accustomed to the examination of specifications and drawings for patents for mechanical inventions?

A. I have.

5th. Have you seen and read, and are you acquainted with the contents of the second reissue, dated October 7, 1856, of letters patent granted to John P. Sherwood on the 14th December, 1842, and extended for the term of seven years on the 15th December, 1856?

A. I have seen it, and am acquainted with the contents of said letters patent.

6th. To what kind of locks do you understand John P. Sherwood's invention, as patented by him, to apply?

A. I understand it to apply to locks so finished as to apply to doors either side, as a right or left hand lock.

(A lock here offered, and marked "AA, H. Sproul," shown to witness.)

7th. State if you ever saw that lock before, and where?

A. I have seen this lock on the basement gate of the custom-house in New York city, fronting on Nassau street, corner of Wall.

8th. Did you see the lock when it was on the gate?

A. I did.

9th. State whether the gate was on the outside or inside of the

building; what kind of a gate it was, and how the lock was attached to the gate.

A. It was in the outside wall, an iron gate, and the lock was attached by rivets, an open iron gate.

4 10th. State if you were present when that lock was removed from the gate of the custom-house to which it was attached, and how you can identify it as the same lock that was on the gate, and when it was removed from the gate?

A. I was present, and identify it by writing which I find on it now, placed there by me at the time it was taken off; the writing is "C. House, W. Bullock;" on Saturday, 19th inst., it was taken off.

11th. Who took possession of that lock when removed from the gate of the custom-house, and by whom was it brought to this city?

A. I took possession of it and brought it here.

12th. Are you, then, perfectly sure that it is the same lock which was on the gate of the custom-house, at the corner of Nassau and Wall streets, New York?

A. I am positive it is the same.

13th. Has that lock-case a finish on both its sides for the purpose of applying it to a door opening either to the right or left?

A. It has not; it is evidently made for one way.

14th. Wherein does that lock differ from a Janus-face lock, by which I mean a lock having a finish on both faces, and so constructed otherwise as to be applicable to a right or left hand door, or to either side of the same door?

A. It differs in this, that a portion of the edges are formed by bending down the outside case, so as to leave the corners rounded, and the bolts are nearer to one side of the lock than the other, so that the same keeper would not answer if the lock were reversed, and the latch bolt beveled on one side would not hold the door together if the lock were reversed.

15th. State whether there is anything in the construction or arrangement of the latch-bolt which renders this lock unsuited for a right and left hand door-lock.

A. There is. The tongue of the latch bolt is beveled on one side, that is all.

16th. Should not a right and left hand door-lock be so constructed and finished, as that either side of the lock is equally susceptible of being turned out? And if yea, state whether this lock is so constructed and finished that either side may be made the outside when the lock is attached to the door.

A. In my opinion they should be so constructed and finished.

5 This lock is not so constructed and finished; it is made for one side only of the door.

17th. Should you call this lock a door-lock?

A. I should not call it a door-lock now.

18th. Is that a right or left hand lock?

A. This is a left hand lock.

Adjourned to meet at 2 o'clock p. m.

H. SPROUL, *Commissioner.*

Monday afternoon, 2 o'clock.—Parties appear, present as in forenoon.

William Bullock resumed:

19th. In answer to the 13th interrogatory you state that this lock now before you (*i. e.*, the custom-house lock) is evidently made "for one way." Explain what you mean by that.

A. I mean by "one way" one side only of the lock can go next the door.

20th. In case a lock similar to this one before you was wanted for a right hand lock, in what respect would it have to be made different from this one?

A. It would have to be made the reverse of this one; the bevel of the latch would have to be on the other side of the latch, and the keyhole the other end down.

(The inside plate of the lock is here taken off by the witness to examine its interior construction.)

21st. State whether the latch bolt is so constructed and arranged in connection with the parts of the lock by which it is operated, as that it is susceptible of reversal without altering the other parts of the lock, so as to bring the bevel of the latch in a proper position for a right hand lock.

A. It is not.

22d. In answer to the 15th interrogatory you said that the bevel of the tongue of the latch was that which rendered it unsuited for a right and left hand door-lock, and added to your answer "that's all." What did you mean by "that's all?"

A. I said "that's all," because I had not then seen the interior of the lock, and because I supposed the question referred to the exterior appearance of the latch bolt alone, and not to its connection with the other parts of the lock.

6 (Lock produced and shown to the witness, marked "BB, H. Sproul.")

23d. State whether you have ever seen this lock before. If so, where?

A. I have seen this lock before on the front gate of the yard of the city hospital, on Broadway, New York.

24th. What description of gate was this lock on?

A. It was on an open iron gate. The gate was situate outside and entirely detached from the building.

25th. Were you present when that lock was removed from the front gate of the city hospital? When was it removed, and how can you identify it?

A. I was present when it was removed on Saturday last. I identify it by writing which I find on it: "entrance hospital," written by me at the time it was taken off.

26th. Who took possession of that lock at the time it was taken off, and who brought it to this city?

A. I took possession of it, and brought it here, and have had possession of it ever since it was taken off, and know it is the same lock.

27th. State whether that lock is so finished on both faces as to adapt it for application either to a door opening to the right or left; that is to say, may either face of the lock be placed outside equally well?

A. This is made for a door opening to the right—one side being better finished for the outside than the other.

28th. Is this such a lock as is applicable for a door at all?

A. It could be used on a door, but I should consider it a gate lock for iron gates.

29th. Is it such a lock as would be suitable for use in a house?

A. I should think not.

30th. Is there any latch-bolt to this lock now before you?

A. There is not.

31st. Is there any material difference in the construction and finish of the two faces of this lock, and what?

A. There is. A portion of the plate from which the outside of the lock is made is turned down, so as to form the ends and cover over the edge plates, so as not to show any joints on the outside face
7 of the lock, which I call the face; and on the opposite side of the lock the plate is fitted in between two of the edge plates, which would leave the joints in view, should the lock be put on that side from the door.

32d. Is that lock equally well adapted to a door opening to the left hand as to a door opening to the right hand?

A. It is not.

(Lock marked "CC, H. Sproul" here shown to witness.)

33d. Examine this lock, and state whether you have seen it before, where it came from, and how you can identify it?

A. I have seen it before on the gate at the keeper's lodge of the city hospital, on Broadway, New York. It was taken off in my presence on Saturday last, at which time I wrote "keeper's lodge" on its face, and I have been in possession of it ever since. I brought it to this city. It was on an open iron gate that was outside and detached from the building.

34th. State what kind of a lock you consider this to be.

A. I consider this to be a dead lock, adapted to an iron gate; by a dead lock I mean a lock without a latch bolt.

35th. Is that a right or left hand lock?

A. It is a right hand lock.

36th. Are the words "keeper's lodge" written on the outside or face of the lock, or on the inside? by which I mean the side placed next the gate.

A. On the outside, or side from the gate.

37th. Is there anything in the appearance or situation of the bolt which leads you to suppose that this lock is not constructed so as to have either side placed next to the gate?

A. There is. The bolt is much nearer one side than the other, so that the keeper would not answer were the lock reversed.

38th. Is there anything else in the construction or appearance of

the lock which shows that it was not designed to be placed either side out? State what.

A. There is. The end plates are formed by bending down a portion of the face plate, thereby giving greater strength to the face plate, so that the lock cannot be so easily pried open when secured to the door or gate, as it could be if placed the other side out.

(Lock marked "DD, H. Sproul" here shown to witness.)

39th. State whether you have ever seen this lock before,
8 and where, and how do you identify it?

A. I have seen it before, on the centre gate of St. Mark's church, in New York. I put two crosses on it previously to its removal from the gate, and am positive it is the same lock removed on Saturday last and brought here by me.

40th. State whether this lock is so constructed and finished as to be suitable for use as a right or left hand lock, and to have either face placed outside.

A. It is constructed for a right hand lock, and is only suitable to be put one side out; one plate being sunk about three-eighths of an inch below the edge plates, it would be entirely unsuitable to be placed that side out; also the bolt is in one side of the lock, close to the face plate, so that the keeper would not answer if the lock should be placed upon the door the reverse side out.

41st. State how the inside plate is attached to the lock.

A. It is attached by two screw bolts, with nuts on the outside of the plate.

42d. What kind of a gate was that lock attached to, and how is the gate situate?

A. It was attached to an open iron gate on a fence of the church, on the sidewalk, detached from the building.

43d. State whether you brought with you the entire lock, and whether this is the entire lock.

A. I brought the entire with the exception of the keeper into which the bolt passes when it is locked, and this is the entire lock.

44th. State what description of lock this is.

A. A dead lock, suitable for a store door.

(Lock marked "EE, H. Sproul" here shown witness.)

45th. Examine this lock and state whether you have seen it before—where, and how you can identify it.

A. I have seen it before, on the western gate in the basement of the City Hall, New York—in the passage way or hall—and identify it by "W. G." marked on it by me when I removed it from the gate on Saturday last. I took possession of it at that time, brought it to this city, and have had possession of it ever since, and I am positive it is the same.

46th. State what kind of a lock that is.

9 A. A dead lock, suitable for an iron gate. It is not what I call a door-lock.

47th. Is it finished alike on both sides?

A. It is not. The end plates are formed by bending down portions of the face or outside plate, thereby rendering it more difficult

to pry it open when properly secured to the door or gate, when used as a left hand lock, for which it is evidently designed. I also find the bolt is nearer the one side than the other, so that the same keeper would not answer to have the lock placed on the reverse side of the gate. Also, one of the end plates projects beyond the inside face plate showing the joints, which would be unsuitable for the outside of a lock.

Adjourned to meet at nine o'clock to-morrow morning.

Tuesday, March 22, 1859.—Parties met—present the counsel of both parties.

Wm. Bullock *resumed.*—("Lock EE" again shown to witness.)

48th. State what kind of a gate you found this lock attached to.

A. It was on an open wrought iron gate.

49th. Where is that gate situate?

A. Near the west end of the passage-way in the basement of City Hall, New York.

*Cross-examined by Mr. Stowe.*

1st. Are you familiar with the Janus-faced lock manufactured by the complainants, having a blunt bolt and bevel keeper?

A. I have seen them.

2d. State whether or not if this lock, marked "AA," had a blunt latch bolt, and, in connection with a bevel keeper, might not be used either as a right or left hand door lock.

A. Not with the same bevel keeper.

3d. Why might it not be used with the same bevel keeper?

A. Because the latch bolt is nearer the one side of the lock than the other.

4th. Is that the only reason?

A. This is the only reason I observe now.

5th. Might not the keeper be so arranged as to obviate that difficulty?

A. I don't know but some inventor might get up one, but I have never seen one.

6th. Would it not depend entirely upon how the keeper was placed upon the joint of the door?

A. The keeper might be furred up from the casing of the door to accommodate the thick side of the lock; or it might be mortised into the casing to accommodate the thin side of the lock.

(Lock marked "DD" again shown to witness.)

7th. State whether this lock, before it was taken off the gate at St. Mark's church, presented the same appearance upon both sides that it now does.

A. I could see but one side of it while on the gate; it was placed against a plate, which, without close inspection, appeared to be a portion of the lock.

8th. State how this was put upon the plate which was fastened to the gate as just mentioned.

A. The plate was placed against the bars of the gate, and the sunken side of the lock against the outside of the plate.

9th. Did that present the same appearance on both sides of the lock?

A. Nearly the same.

(Lock marked "CC" here shown to witness.)

10th. What is to prevent this lock being used for a door or gate opening either to the right or left?

A. I do not know anything to prevent any lock, which has not a bevel bolt and has a keyhole through the door, being used on either a right or left hand lock or gate.

11th. Can you use any ordinary lock either upon a right or left hand door without turning it upside down?

A. Such a lock as answered in my last question I could.

12th. What kind of a lock did you mean in your last question?

A. A lock that has not a beveled bolt.

13th. Would it not be necessary to have the lock so arranged as that you can turn either side out?

A. It would.

14th. Is this lock, "CC," so arranged that it may be turned either side out, so far as the case is concerned?

11 It could be turned either side out, but is evidently designed for one side.

(Lock "EE, H. Sproul" shown witness.)

15th. You have stated that the side of this lock having the face bent down so as to form the edge was the proper face or outside of the lock: state now which side was used as the outside as it was placed upon the gate from which you took it.

A. The out or face side was placed upon the bars of the gate, which would be using what I call the outside for the inside.

*Chief resumed.*

1st. Is there anything in the finish of the lock marked "AA" which would render it unsuitable for reversal, so as to adapt it for use on either a right or lefthand gate?

A. There is.

2d. Then, when you state that any lock which has not a beveled latch bolt may be attached to a door or gate, did you mean that such arrangement would be suitable or convenient?

A. I did not. I meant it would be possible to do it without regard to utility or convenience.

3d. In the same sense, would it not be possible for the St. Mark's lock, "DD," to be applied to a door or gate wrong side out?

A. It would.

4th. If no regard were paid to appearance, or to the safety arising from the concealment of the screws or fastening by which the locks are put together, or the seams and joints of the edges of the parts of the case, might not any cased fastening or lock, the works of which are covered on both sides, be fastened, either side out, to a door or gate, provided there were a hole for the admission of the key on both sides?

A. Yes, it might.

5th. If a lock constructed and designed for application of one of its

sides only to a door or gate were reversed as stated in the foregoing question, so as to place it wrong side out, would it answer the purpose equally well as if turned right side out?

A. It would not answer the purpose equally well, either in appearance or safety, for the same reasons assigned in my direct examination, with regard to the locks produced here by me.

W. BULLOCK.

H. SPROUL, *Commissioner.*

Adjourned to meet at nine o'clock to-morrow morning.

12 Wednesday, March 23, 1859, 9 o'clock a. m.—Present, the counsel of both parties, having met pursuant to adjournment.

James H. McClelland affirmed:

My name is James H. McClelland; my residence, Pittsburg; my occupation, a master-builder; and my age, fifty years.

1st. How long have you been engaged in your business?

A. Thirty years and upward, and have nearly all that time been engaged in building stores, factories, &c.

2d. Are you acquainted with door-locks constructed substantially like exhibit "GG, H. Sproul," that is to say, having both sides so constructed and finished as that either side is equally well adapted to be placed outside when the lock is attached to the door, commonly known as Janus-faced door-locks?

A. Yes, I am. I became acquainted with these locks soon after they were produced by the Novelty Works, known as Livingston, Roggen & Co.

3d. Have you made use of locks of this description?

A. Yes, I have. I have put on many of them.

4th. What advantages do these locks possess over door-locks in use prior to the introduction of these Janus-faced locks by Livingston, Roggen & Co.?

A. They are adapted for right and left hand doors, thus obviating the care that was required in purchasing locks for any given building or series of doors, to see that they were for right and left hand, according as doors required. I did not know of any lock prior to that which had the same advantages.

5th. Do you consider these locks to be a valuable invention, and of utility to the public?

A. I do.

6th. State whether or not these Janus-faced locks have gone into general use.

A. I can say they are extensively used.

*Cross-examined by Mr. Stowe.*

1st. Would not any door-lock so constructed as to allow either side being placed next the door, when placed upon it for use, answer the same purpose?

A. Yes, that would be the same thing, either face answering; it would be just the thing we are talking about.

W. H. M'CLELLAND.

H. SPROUL, *Com'r.*

13 William M. Edgar sworn:

1st. What is your name, age, occupation, and residence?

A. My name is William M. Edgar; my age about 50; residence, Pittsburg, and house-builder by profession.

2d. How long have you been in the business of house-building?

A. About 35 years. I have erected a great many houses and buildings during that time.

(Exhibit "GG, H. Sproul," shown to witness.)

3d. Are you acquainted with door-locks constructed substantially like "GG, H. Sproul;" that is to say, so constructed and finished as that either side is equally adapted to be placed outside when the lock is attached to the door, commonly known as Janus-faced locks? and state, as near as you can recollect, when you first saw such locks.

A. I am acquainted with such door-locks. I believe I used them before 1845. I am not positive.

4th. Did you ever see any such locks in use before they were introduced by Livingston, Roggen & Co.?

A. They were the first and only ones, I believe.

5th. Have you made use of many of these locks in the construction of buildings?

A. Yes, I have used a good many of them.

6th. Can you state whether or not these Janus-faced locks have been introduced into general use as door-locks?

A. I think they have, as far as my knowledge goes.

7. What effect has the introduction of these locks had on the price of door-locks?

A. I think they reduced the price from what they were before. They are a cheaper lock than I had been in the habit of using before they were introduced.

8th. What effect do these Janus-face door locks possess over other door locks in use prior to the introduction by Livingston, Roggen & Co., other than the reduction of price?

A. They answer for a right and left hand door equally well.

9th. State why.

A. Because after we have put up a new building, we have to go round and ascertain which way the doors were to be hung; generally made a mark on the door jamb, either right hand or left, which-

14 ever answered best, and kept a memorandum as we went along, of the number of right and left hand locks required, and had to purchase accordingly—which had to be done, always, before the introduction of these locks. We had to make up our minds which way the doors were to be hung before we could purchase the hardware for the house, and this I always considered a great disadvantage. The introduction of the Janus-faced lock obviated all these difficulties, as all we had to do was to ascertain the number of locks wanted, without regard to their being right or left. I have had mistakes made by hardware men, and had to take back the locks to have them changed, which was some trouble.

10th. Do you or do you not consider these locks to be a valuable invention and of great public utility?

A. I do so consider them.

*Cross-examined by Mr. Stowe.*

1st. Would not any door-lock, made so that it could be placed upon a door either side out, answer the same purpose?

A. I think it would, made in this way, with a double bevel to the spring bolt—that would be a lock exactly like this. That was the difficulty with the other locks; the bevel was only on one side.

2d. Would these Janus-faced locks answer for right or left hand doors, if the latch bolts were beveled only on one side?

A. No, without turning the lock upside down.

3d. Do these Janus-faced locks, so far as answering for right and left hand doors, have any advantage over the old-fashioned locks, without their having the double beveled bolt?

A. No, I don't think they do.

4th. Could not the old locks be placed upon either right or left hand doors by turning them upside down?

A. They could; that would place the key-hole upside, which we always avoid when we can.

*Chief resumed.*

1st. Supposing that these Janus faced locks, instead of having a latch bolt shaped as that one in the exhibit "GG, H. Sproul," had a latch bolt with a single beveled tongue, so made as to be reversible in the lock; then would not a lock so constructed and with a double face answer equally well for a right or left hand door?

A. Yes, it would.

15 2d. In answer to the 3d cross-interrogatory—which was, "Do Janus-faced locks, so far as answering for right or left hand doors, have any advantage over the old-fashioned locks without their having the double beveled bolt"—you said "you did not think they did." Did you mean that you had never seen any old-fashioned locks finished on both faces, so that either face was equally adapted for the outside?

A. I don't think I ever did. I say the old-fashioned locks had only one face which was intended to be exposed, and we could not put them on a door opening to a different hand from that for which the locks were made without turning them upside down. I say, the old-fashioned lock had only one face which was intended to be exposed, and we could not put them on a door opening to a different hand to that for which the locks were made, without turning them upside down, as one side of the lock was made to be placed outside, and the other side rough, and would not do to be placed outside.

3d. To your 3d cross-interrogatory you say in answer, you speak of a double beveled bolt. Please explain what you mean by that; do you mean a blunt bolt, slightly rounded on both sides?

A. I do. The old-fashioned bolt was beveled on but one side.

WM. M. EDGAR.

H. SPROUL, *Com'r.*

R. T. Kennedy sworn :

(By consent, the writing down of interrogatories is waived, and examination of Mr. Kennedy proceeded with.)

My name is R. T. Kennedy, my age is 47 years, and I am now engaged in a large flouring mill. I was formerly a hardware merchant in Pittsburg, about twenty-six years. My residence is now Allegheny City, near Pittsburg. I have dealt very largely in locks—have imported them from England—have had large quantities manufactured in England expressly for us. I was there when many of them were manufactured. I was in England in 1838 and 1843. I am very well acquainted with the art of lock manufacturing in this country previous to the last five or six years, and partially since that time.

I have never seen any double-faced locks previous to those manufactured by Livingston, Roggen & Co., nor have I ever seen any rounded bolts of the same kind ; I mean rounded on the end of the bolt like the one now before me, exhibit "GG, H. Sproul." All former locks were beveled— beveled on one side only—that is, the latch bolt.

There was another lock, such as this one now before me
16 marked "HH, H. Sproul," with a key that worked either way.

(Mr. Stowe excepts to this evidence as irrelevant.)

This lock is constructed with a double keyhole, so that the lock may be turned either side up, so as to be used either for a right or left hand lock. It is not made to be used either side out. It has a single bevel and is not double-faced, and is not finished or arranged so as to be turned either side out. This lock was manufactured at the Novelty Works. I do not know by whom invented. I mean by the Novelty Works, the works of Livingston, Roggen & Co.

(Lock marked "KK, H. Sproul," shown to witness.)

This is a lock-latch, and will answer for either right or left hand lock; with two keyholes, one of which is always under the knob, so that the lock can be turned either right or left. This lock is not constructed so as to be turned either face out. It has two keyholes on one side and one on the other. The side with one keyhole is the one designed for the face out. The other side is not adapted to be placed out. This lock I believe to have been manufactured by the Novelty Works, but I am not sure. I never dealt in this lock.

(Lock marked "JJ, H. Sproul," shown to witness.)

This lock has two keyholes, but a single bevel latch bolt. The two keyholes are for the purpose of using it either as a right or left hand lock. The key can always be put in right side up, and always under the knob, which enables it to be used as either a right or left hand lock conveniently. This lock can be used but one side out. Those locks marked JJ, KK, and HH, were all introduced previous to Janus-faced locks.

The object of these locks was to enable them to be used conveniently as right or left hand locks. Some locks were used so before. but had to be turned upside down; but this was very inconvenient, and some of the old locks could not be so used at all.

The Janus-faced lock is a decided improvement over all the old locks, and also on those locks which I have just referred to, marked KK, JJ, and HH. I know of no further improvement in locks since the introduction of the Janus-faced lock, in right and left hand locks, which I consider better than them. The locks are very much reduced in price since the introduction of the Janus-faced lock. These locks can be made cheaper than any other right and left hand lock that I have seen. The simplifying the lock has very much reduced the price of manufacturing locks—very considerably.

17 The Janus-faced lock principle has reduced the cost of manufacturing, and simplified the construction of right and left hand locks very materially. The introduction of the Janus-faced lock has reduced the price—has driven almost all other low-priced locks out of the market. A dead lock is a lock without either knob or latch bolt.

(Respondents' counsel here objects to so much of the foregoing testimony as relates to the locks marked JJ, KK, and HH, and also to the locks themselves being offered in evidence, as being irrelevant to the matter in issue.)

Q. If the bolt of a dead lock is nearer one side of the case than the other, would the lock be equally adapted to doors opening either to the right or left if turned either side out?

A. Not without changing the position of the keeper, by either sinking it in or raising it up.

R. T. KENNEDY.

H. SPROUL, *Commissioner.*

Adjourned, to meet to-morrow morning at 8 o'clock.

Thursday morning, March 24th, 1859, 8 o'clock.—Parties met pursuant to adjournment. Present, the counsel of both parties.

The counsel for the defendants admit that locks similar to the locks exhibits "KK, JJ, HH, H. Sproul," were gotten up at the Novelty Works of Livingston, Roggen & Co., previous to the year 1850, and were manufactured and sold by Livingston, Roggen & Co.

Turner Strobridge sworn:

1st. State what is your name, age, residence and occupation.

A. My name is Turner Strobridge; my residence, Pittsburg; my age, 32 years; and occupation, pattern maker.

(Locks marked "Exhibits EE, BB, CC, H. Sproul," shown to witness.)

2d. State what description of locks those are.

A. They are the old-fashioned wrought-iron dead locks.

3d. State whether these locks are such as are made for door locks; and if not, state for what purpose such locks are made.

A. I should call these gate locks, from the manner of their construction and manner of fastening them on.

4th. State whether those locks are so constructed and finished as

to be adapted equally well for doors opening either to the right or left.

18 A. They might possibly be made to work either way, but you would have to make two separate keepers. The bolt not being in the centre, a keeper that would fit that lock (witness has lock CC in his hands) one way, when the lock is reversed would not fit; the keeper would have to be made wider, or the bolt would strike the keeper and not enter. A keeper that would allow that to work when placed either way, would allow the door to rattle, and not hold the door shut as it ought to be.

5th. State whether there is anything else in the construction and finish of these locks that renders them unsuitable to be placed either side out.

A. This lock CC is only finished on one side; the rivet heads stick out on the inside, and the case is turned over on one side, and the plate is put flush on the back side without respect to finish.

Lock marked BB has a flange on the back edge, which would prevent it from being used either side out, and the lock is only finished on one side.

Lock marked EE has a plate on one side which would prevent it from being used either side out. This lock is so finished that it is not fit to be used either side out on a door. I mean it is a very rough specimen of a lock.

(Lock DD and AA shown to witness.)

6th. State whether any of these locks marked AA, BB, CC, DD and EE are so constructed and finished as to warrant the supposition that they were designed by the maker or makers of them to be applied to doors opening to the right or left.

A. I should say they were not made for both right and left hand doors; not any of them.

*Cross-examined by Mr. Stowe.*

1st. You have stated that the lock marked Exhibit EE has a plate on one side which would prevent its being used either side out. State to what you refer.

A. The plate on the edge which is riveted to it.

*Chief resumed.*

1st. For what purpose is the plate riveted on the edge of this lock?

A. For a support. This is a great lock, and that plate was put on for a support, and to strengthen the case.

TURNER STROBRIDGE.

H. SPROUL, *Com'r.*

19 Augustus H. Ahlborn sworn:

1st. What is your name, age, residence and occupation?

A. My name is A. H. Ahlborn; my residence Lawrenceville; age nearly 40; occupation, scale maker.

2d. Have you been in the habit of seeing and examining door-locks?

A. I have; and made some too, myself.

(Exhibits AA, BB, CC, DD and EE, here shown to witness.)

3d. State whether any of these locks are so constructed and finished as to warrant the supposition that they were designed by the maker or makers of them to be applied to doors opening either to the right or left.

A. I do not think they were.

A. H. AHLBORN.

H. SPROUL, *Com'r.*

John T. Logan sworn:

1st. What is your name, age, residence and occupation?

A. My name is John T. Logan; my residence is Allegheny City; my age, about 49; my occupation, hardware merchant, since 1831.

2d. Have you or have you not dealt in locks; and if so, for what length of time, and to what extent?

A. I have been engaged in business of buying and selling locks, with other hardware, from 1831 to the present time, and have dealt largely in locks, and have imported them from England and Germany in the early part of our business.

3d. Have you been acquainted with the state of manufacture of locks in England, and have you visited that country?

(Objected to by respondents' counsel, as irrelevant.)

A. I have visited England for the purpose of my business, during which I purchased locks of various kinds, and am acquainted with the art of manufacturing locks in England. The object of my visit was to become acquainted with the manufacturers of hardware as well as the different kinds of hardware.

4th. State whether, since you have been in the hardware business, you have been acquainted with the different kinds of door-locks manufactured in this country?

A. I have; I presume the most kinds made in this country.

20 (Exhibit GG, H. Sproul, shown to witness.)

5th. State whether you have been in the habit of selling door-locks constructed substantially like the lock now shown to you—that is, having both sides so constructed and finished as that either side is equally well adapted to be placed outside when a lock is attached to a door; and from whom you purchased those locks.

A. I have: from Livingston, Roggen & Co., and subsequently from Livingston, Copeland & Co. I have purchased and sold them for several years.

6th. Was that kind of lock considered by yourself and by your customers generally to be superior to door-locks in use previous to the introduction of these Janus-faced locks by Livingston, Roggen & Co.?

A. In its adaptation to the wants of the people it was considered superior, inasmuch as it suited both sides of the door—that is, it was adapted to a door opening either right or left.

7th. What effect had the introduction of these locks on the sale of other door-locks which were not Janus-faced?

A. It has nearly superseded the sale of all others of the same quality.

8th. State whether, previous to the introduction of these Janus-faced locks by Livingston, Roggen & Co., you ever saw any door-locks so constructed and finished as that either side was equally well adapted, or apparently intended to be placed outside when the lock is attached to the door.

(Objected to by respondents' counsel, as being immaterial, being merely negative testimony.)

A. I know of none.

9th. State whether you recollect of any efforts made by Livingston, Roggen & Co. to get up and introduce locks so constructed as to be used either for right or left hand doors, and yet not Janus-faced locks.

(Objected to as irrelevant.)

A. I do recollect such an effort.

(Exhibits HH, KK, and II, shown witness.)

10th. State what these exhibits are.

(Objected to as irrelevant.)

A. These exhibits were intended to be used for right and left hand doors. I recognize them as locks got up by Living-
21 ston, Roggen & Co. previous to the introduction of the Janus-faced locks, and none of these locks are Janus-faced.

11th. State whether you sold locks of the description shown by these exhibits referred to in your last answer, and what effect the introduction of the Janus-faced locks had upon the sale of these locks.

(Objected to by respondents' counsel, as irrelevant.)

A. I have sold such locks. The effect has been nearly, if not entirely, to supersede them.

12th. State whether these Janus-faced locks have been extensively sold by Livingston, Roggen & Co., and their successors Livingston, Copeland & Co.

A. They have been sold in large quantities to the hardware trade generally.

13th. State whether or not you consider this invention of the Janus-faced lock a valuable one, and of great public utility.

A. I do consider it a valuable invention, and to meet the wants of the hardware trade.

14th. State whether you know of similar locks to the Janus-faced locks having been manufactured and sold by the respondents in this case; and if yea, state, if you know, what effect it had upon the business of Livingston, Copeland & Co.

A. I know of such locks having been made by respondents. Do not know its effect, but suppose it to be injurious.

*Cross-examined by Mr. Stowe.*

1st. When you speak of the respondents manufacturing Janus-faced locks, do you mean such locks as the one marked "GG, H. Sproul," and having a blunt bolt and bevel keeper?

A. I mean a lock similar in appearance, and intended to answer the same purpose, with a similar bolt.

JOHN T. LOGAN.

H. SPROUL, *Com'r.*

Adjourned to meet at 2 o'clock p. m.

Complainant offered in evidence letters patent, dated 1st May, 1849, to Laureston R. Livingston, John J. Roggen and Calvin Adams, for improved right and left hand locks, and attached thereto additional improvements, dated 5th June, 1849, marked "LL, H. Sproul."

(Objected to by respondents' counsel, as being immaterial and irrelevant.)

Adjourned to meet at 10 o'clock to-morrow morning.

22 Friday morning, March 25, 1859. 10 o'clock.—Met pursuant to adjournment, and by consent adjourned to meet to-morrow morning, at 10 o'clock.

Saturday, March 26, 1859.—Parties met, and by consent adjourned to meet on Monday next, at 10 o'clock a. m.

Monday, March 28, 1859, 10 o'clock a. m.—Parties met pursuant to adjournment, and by consent adjourned to meet at 10 o'clock to-morrow morning.

Tuesday, March 29, 1359.—Parties met pursuant to adjournment, and by consent adjourned to meet to-morrow morning, at 10 o'clock.

Wednesday, March 30, 1859.—Parties met pursuant to adjournment, and by consent adjourned to meet to-morrow morning, at 10 o'clock.

Thursday, March 31, 1859.—Parties met pursuant to adjournment. Present, the counsel of both parties.

Complainants offer in evidence exhibit "PP, H. Sproul," being certified copy from the records of the Patent Office, of letters patent issued to John P. Sherwood Dec. 17, 1842.

Also offer in evidence certified copy from the records of the Patent Office, of the application of Calvin Adams, assignee of John P. Sherwood, for reissue of Sherwood's patent of Dec. 17, 1842—reissued to Adams, May 13th, 1851, marked "RR, H. Sproul."

Complainants also offer in evidence certified copies from the records of the Patent Office, of letters patent reissued to Calvin Adams, assignee of John P. Sherwood, on May 13th, 1851, marked "SS, H. Sproul."

Complainants offer in evidence a lock marked "TT, H. Sproul," purporting to be a model of lock described in the specification and drawings of letters patent granted to John P. Sherwood, 14th Dec., 1842, and the several reissues and extensions thereof.

Turner Strobridge recalled:

Q. State whether you are acquainted with letters patent granted to John P. Sherwood, 17th Dec., 1842, reissued to Sherwood 7th Oct., 1856, and extended on the 15th Dec., 1856.

A. I am.

(Exhibit "TT" shown to witness.)

Q. State if you have seen that model. If so, by whom was it made?

A. I have, and it was made by Jacob Kinzer.

23 Q. State whether or not that model was made in accordance with the drawings and specification accompanying John P. Sherwood's patent of 17th Dec., 1842, and the reissued and extended patent.

A. I consider this model just what Sherwood described, as near as any one could make it from the drawings.

Q. State whether you were present when the model was made, and whether you carefully compared the model with the drawings of the patent.

A. I was present when it was made, and carefully compared it with the drawings.

TURNER STROBRIDGE.

H. SPROUL, *Com'r.*

March 31, 1859, testimony on the part of the complainants closed.

H. SPROUL, *Com'r.*

*Agreement.*

U. S. circuit court, No 1, May term, 1858.

LIVINGSTON, COPELAND & Co. *vs.* JONES, WALLINGFORD & Co. } In equity.

It is hereby agreed by the complainants and respondents in this case that the question of the amount of damages sustained by the complainants in this case shall not be further gone into in taking testimony in the case until a decision of the court on the question of infringement; after which, the testimony on the subject of damages shall be taken, if necessary, according to the order and direction of the court, before a master.

STOWE & HAMPTON,
*Solicitors for Respondents.*
WM. BAKEWELL,
*Solicitor for Complainants.*

MARCH 24TH, 1859.

24 EXHIBITS.

EXHIBIT "LL, H. SPROUL."

UNITED STATES OF AMERICA.

To all whom these letters patent shall come:

Whereas Laureston R. Livingston, John Jay Roggen and Calvin Adams, of Pittsburg, Pennsylvania, have alleged they have invented a new and useful improved right or left hand lock, which they state has not been known or used before this application; have made oath that they are citizens of the United States; that they do verily

believe that they are the original and first inventors or discoverers of the said lock; and that the same hath not, to the best of their knowledge and belief, been previously known or used; have paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said lock, and praying that a patent may be granted for that purpose:

These are, therefore, to grant, according to law, to the said Laureston R. Livingston, John Jay Roggen and Calvin Adams, their heirs, administrators, or assigns, for the term of fourteen years from the first day of May, one thousand eight hundred and forty-nine, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said lock, a description whereof is given in the words of the said Livingston, Roggen & Adams in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. Given under my hand, at the city of Washington, this first day of May, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States of America the seventy-third.

D. C. GODDARD,
*Acting Secretary of the Interior.*

Countersigned and sealed with the seal of the Patent Office.

{Seal of the Patent Office.}

EDMUND BURKE,
*Commissioner of Patents.*

25 *The schedule referred to in these letters patent making part of the same.*

To all whom it may concern:

Be it known that we, Laureston R. Livingston, John Jay Roggen and Calvin Adams, of the city of Pittsburg, in the county of Allegheny and State of Pennsylvania, have invented a new and useful improvement in door-locks, and we do hereby declare that the following is a full, clear and exact description of our said invention, reference being had to the accompanying drawings, which form a part of the specification.

The principle of our invention is that of constructing a lock in such a manner as to allow of its being used equally well on a door opening either to the right or to the left hand, and of being in both cases locked and unlocked by the key inserted in the keyhole, with its wing downward.

Our modes of accomplishing this object vary according to the number and arrangement of the bolts or latches which we desire to insert in our locks. In figures 1 and 2 is represented a mortise lock, with the catch or latch serving also as a locking bolt, and in figures 3, 4 and 5 is represented an outside lock, having the bolt for locking the

door a separate piece from the latch. In both cases the principle above stated is carried out in the following ways:

In figures 1 and 2 are seen the perspective views of the interior of the mortise lock, in which A is the frame containing the movable parts of the works.

This frame is a plain rectangular box, which we usually form of a single casting, except the lid. It has three small flanges, A, B and C, projecting outward from the inner side to the extent of the thickness of the lock, and against these work the several parts constituting the movable machinery of the lock.

B is the bolt, having an arm E bent twice at right angles, and two projections *f* and *f*, adapted to receive the pressure of the two wings, *g* and *g*, on the tumbler F. Through this tumbler passes the square shank of the knob H.

At the forward part of the bolt B is a point *i*, extending backward from the arm *j*, and entering the coiled spring D, which, when the latch is drawn back by turning it either direction, the tumbler F by its recoil tends again to push forward and close the latch. The opposite end of the same coiled spring is entered by another point *k* formed on a notched sliding piece. This sliding piece is held in position by the sides of the box A and the small flange *c*.

C is a sliding bolt in figure 1, intended to obstruct the
26 movement of the latch-bolt B. When the bolt C is drawn into the position seen in that figure, the projection *b* on the bolt B is allowed to pass and repass freely by the lower end of *c*, in obedience to the movements of F.

In figure 2, the bolt C sliding against *a* and *b* has dropped into the notch between *b* and *c*, and prevents the drawing back of B by the revolving of F. In this position the door is locked.

The keyhole H has a similar portion of a circle at each end, and a straight post between them, so that the stem of the key may be inserted into either end of the keyhole.

If the stem be inserted in the upper end of the keyhole, fig. 1, the wing applies its pressure to the sides of the notch *n*, in order to move the bolt C; if it be inserted in the lower end of the hole, the wing passes into the notch O, as in fig. 2 the lock is seen in a reversed position, the stem of the key *m*, when inserted in the lower end of the keyhole *h*, will allow the wing *r* to pass into the notch *n*, and when into the upper end to apply to the notch *o*.

In the lock adapted to be fastened to the outside of a door, our principle is exemplified by reference to figures 3, 4, and 5. The bolt T is moved by the tumbler F, without reference to the position of the locking bolt U, the latch-bolt in this case drawn forward and kept projecting beyond the edge of the door by the spring S, acting by tension, and not, as in the other case, by compression. The bolt U above is acted on by the key *m*, fig. 4, inserted into either end of the keyhole *h*, so as in turning around to carry the wing *v* either into the notch *n* or into *o*. On the rear of the cross-piece of the bolt U is a projecting pin *w*, serving as a stop to prevent the bolts being pushed backward when thrust out by the key. This stopping is

effected by means of a corresponding projection *x* on the swinging stop Y, figs. 3 and 5, which projection is wedge-shaped posteriously, and has a concavity on its anterior sides to receive the edge of the pin *w* when brought and held against it by the spring *s*. A projection *r*, on the wing of the key *m*, is intended to move the swinging stop Y upward or downward, prior to moving the bolt U. This movement allows the pin *w* to pass by the projection *x*, which had previously confined it and kept the door locked.

An important advantage which we obtained by the above-described improvement, is that of being able to place the same lock on a door opening either to the right or the left hand, and in either case being able to lock and unlock the door by inserting the key into the keyhole with the wing downward.

What we claim as our invention, and desire to secure by letters patent, is constructing a door-lock in such a manner as to allow
27 its being used equally well on a door opening either to the right or to the left hand, by means of a keyhole that will admit a key within the lock in reversed positions, in combination with such arrangement of the movements of the lock as will enable the key to operate the same tumbler and bolt in whichever position it may be inserted within the keyhole.

L. R. LIVINGSTON.
JOHN JAY ROGGEN.
CALVIN ADAMS.

The above specification and claim signed in presence of witneses—
WILLIAM D. HOOD.
STEPHEN JARVIS.

*Additional improvements.*

To all whom it may concern :

Be it known that we, L. R. Livingston, J. J. Roggen and Calvin Adams, of Pittsburg, in the county of Allegheny and State of Pennsylvania, have invented an additional and valuable improvement on the right and left hand door-lock patented by us on the first day of May, 1849, and we do hereby declare the following to be a full and exact description thereof, reference being had to the accompanying drawings making a part of this specification:

In this our improved right and left hand lock are two keyholes, FF, which are placed in reversed positions, one near the top and the other near the bottom of the lock, and we give the tumbler C and bolt B, respectively, such forms and such a combination with each other, in reference to the said keyholes, that they may be operated by a key inserted into either of the keyholes. By this construction of the lock, it can be placed upon a door opening either to the right or left, and receive its key right side up in either situation. The key is also admitted into the lock directly below the knob.

We find that this lock is more simple in construction, and much

more convenient in use, than our right and left hand patented lock above referred to.

In the accompanying drawings fig. 1 is a plan of the lock with the back plate of the case removed. Fig. 2 is a plan of the lock with the back plate of the case and the bolt removed. The two flat plates, CC, which are so connected as to form the tumbler, are of the shape and combined in the manner represented in fig. 2, and are placed against the inside of the front plate A of the lock case; *mm* are fulcrum pins projecting from the front plate (A) of the lock case, through holes in the elbows of the tumbler plates CC. The ends of the plates CC, that project inward from the fulcrum pins *mm*, are connected centrally between the fulcrum pins by a movable, self-adjusting joint, and the opposite ends of CC are connected by and pressed outward by the pring D. The coiled spring D
28 is kept in its place by the points *kk*, projecting from the inner sides of the extremities of the tumbler plates CC; into the ends of the springs *ii* are points projecting from the upper sides of the tumbler plates. B is the bolt from which branch off the two arms *bb* of the form represented in fig. 1. The branches *bb* rest against the tumbler plates CC, and are guided in their movements, as the bolt is moved out and in by the lugs *hh*, that project from the plate A of the lock case. When the bolt is within the lock, the points *ii*, that project from the tumbler plates, are forced into the notches *gg*, in the inner sides of the bolt arms *bb*, (by the action of the spring D,) which securely hold the bolt in its place. When the bolt is thrown forward the points *ii* are forced into notches at the inner corner of the ends of the bolt arms *bb*, and retain the bolt securely in this position, as represented in fig. 1.

The key operates upon the tumbler and bolt in the following manner: When the key is turned in either of the keyholes FF, it first strikes against the outer edge of one of the tumbler plates CC, and thereby forces back the ends of both tumbler plates simultaneously a sufficient distance to detach the points *ii* from the notches in the inner sides of the bolt arms before the wing of the key strikes against the sides of the notches *ff*, in the outer edges of the bolt arms *bb*, and move the bolt out or in.

It will readily be perceived from the form of the tumbler plates CC, and the manner in which they are combined with each other, that any motion imparted to one of them will produce a correspondent movement of the other. The hole E in the front plate of the lock case is for the admission of the shank of a knob, and the opening N in the edge of the lock case is for a latch-bolt to play back and forth in. The latch movements, having no connection with the lock movements, are not represented in the drawings, and need not be further referred to in the specification.

What we claim as our invention, and desire to secure by additional letters patent, is the constructing a lock tumbler of two parts CC of such a form, and combined with each other and with the arms *bb* of the lock-bolt in such a manner, in relation to the keyholes FF, placed in reversed positions near each end of the lock, that a key

will operate the tumbler and bolt equally well when inserted into either of the said keyholes, substantially in the manner herein set forth.

Witnesses:
Z. C. ROBBINS.
R. W. WILCOX.
HENRY JONES.
GEO. A. NUGENT.

L. R. LIVINGSTON.
J. J. ROGGEN.
CALVIN ADAMS.

29 I hereby certify that the foregoing additional schedule has, this fifth day of June, 1849, been duly annexed to the original patent of L. R. Livingston, J. J. Roggen, and Calvin Adams, and that the same is duly recorded on the books of the Patent Office, and that fifteen dollars, the duty by law required, has been paid into the treasury of the United States.

{ Seal of the Patent Office. }

THOMAS EWBANK,
*Commissioner of Patents.*

*Exhibit "PP, H. Sproul."*

THE UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of letters patent issued to John P. Sherwood, Dec. 17th, 1842.

In testimony whereof, I, S. T. Shugert, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this 15th day of March, A. D. 1859, and of the independence of the United States the eighty-third.

{ Seal of the Patent Office. }

S. T. SHUGERT.

THE UNITED STATES OF AMERICA.

No. 2,886. To all to whom these letters patent shall come:

Whereas John P. Sherwood, Sandy Hill, New York, has alleged that he has invented a new and useful improvement in door-locks, which he states has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the treasury of the United States the sum of thirty dollars, and presented to the Commissioner of Patents a petition, signifying a desire of obtaining an exclusive property in said improvement, and praying that a patent may be granted for that purpose:

These are, therefore, to grant, according to law, to the said John P. Sherwood, his heirs, administrators, or assigns, for the term of fourteen years, from the seventeenth day of December, one thou-

sand eight hundred and forty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given
30 in the words of the said John P. Sherwood, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these letters to be made patent, { Seal of the Patent Office. } and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this 17th day of December, 1842, and of the independence of the United States of America the sixty-seventh.

DANIEL WEBSTER,
*Secretary of State.*

Countersigned and sealed with the seal of the Patent Office.
HENRY L. ELLSWORTH,
*Commissioner of Patents.*

*The schedule referred to in these letters patent and making part of the same.*

To all whom it may concern:

Be it known that I, John P. Sherwood, of Sandy Hill, Washington county and State of New York, have contrived and invented some new and useful improvements not known or used before in the constructing and manufacturing of door-locks, and the following is an exact description thereof:

Every part of my lock may be made of cast iron, and for the most parts it is the cheapest material. My first improvement is in the case E, figure 6, which I make doubled faced; each face projects over the side and back end. The front end has no lip or projection like ordinary iron cases, but its edges are plain and covered by the two face plates. The aperture for the bolt in the front end of said lock is as wide as said end, so that the moulder may dispense with setting a core and a stay, marked S, (with two screw holes through it,) from $\frac{3}{4}$ to $1\frac{1}{2}$ inches wide, and from $1\frac{1}{2}$ to 3 inches long, rises on the lower front corner of each face, protecting the bolt hole. This improvement facilitates and cheapens the casting of a case, by lowering the sides and ends, and doing away with the setting of a core. It also fits every outside case for either a right hand or left door, without turning the lock upside down, and it renders the lock stronger and more durable. A glance at the drawing shows its peculiarities and their use. The inside of the case is cast with common fixtures, such as friction plates, studs, and braces, to keep the bolt and other detached pieces in their respective places.

My second improvement is in making the bolt with notches, one on its lower, and one exactly similar on its upper edge, so that, in connexion with its vibrating or connecting bar A, a horizontal
31 motion is given to the bolt, and also adapts it, by simple reversion, to a right or left hand door. Each is cut perpendicular,

and extends through one-third part of the bolt, reducing the bolt in the centre, between the two notches, to one-third of its original size.

Figure 1 shows the bolt with its two similar and opposite notches, *aa*, its back end *b* forked so that it may pass a screw, and its front end *c* beveled to make one bolt answer for both lock and latch.

Figure 2 exhibits the vibrating or connecting bar A for moving the bolt, which is of a very irregular shape, and nearly fills the upper half of the case. Its lower front corner *d* projecting downward, is made to fit the notch *a* in the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner, *e* shows a small hole for a screw, on which it vibrates, and near by, *f* shows a larger one for the handle. Nearly all of the back end of this bar is made quite thin, as at $A^2$, leaving space between it and the case, on one side for one sliding car or impelling weight, and on the other side for two sliding cars hereinafter described. On each side of the bar are three studs, *g*, *h*, *i*, in height equal to the original thickness of the bar, and a curved key guard K, not quite as high as the studs which shield the locking car. Stud *g* is at the lower back corner *h*, near the centre, and *i* above the back of *h*. Each stud on one side has a corresponding stud, similar and similarly situated on the opposite side; *h* and *i* form an inclined track or way, *i* being placed obliquely above *h* toward the front end of the case, and as the corresponding studs on the opposite side of the bar form a similar track or way, we have a double inclined track or way for the safety cars (hereinafter described) to pass up and down. A little above the corner stud *g*, a notch *l* opens from the back end of the bar toward a point below the centre stud *h*, a passage way for the stud *m* of double-acting locking car B, hereinafter described.

Figure 3 represents the double-action locking car B, of which the exact form can only be learned from a model or drawing. It is a thin plate, with a stud *m* near one corner on one side, and a much shorter stud directly opposite, on the other side. These studs add power to this car, and connect it with safety cars, $GG^2$, hereinafter described, in a way that holds the three cars fast together when locked. The largest notch, W, gives room for the double-action locking car B, passing stud *h* of the connecting bar A. The sides of this notch N are in one part horizontal, and in another oblique or inclined. In one part of its movements on the studs *h* and *g* of said connecting bar it is horizontal, and in another inclined. The *h* and *g* of the vibrating or connecting bar A thus becomes, at different periods, a horizontal and an inclined track or way for the
32 locking car B to move upon. The small notch *o* admits the key (figure 5) by which the car is moved, an acute angular projection *p*, near stud *m*, catches under a stud D, on the side of the case E when locked, as seen in figure 8, and fastens to the car. The locking is effected by a compound and backward movement of this car B, which is new and peculiar to my lock. Another car exactly like this, with similar action, may be attached to the other side of the connecting bar, if greater security be desired. G (figures 4 and 7) shows the shape of the two safety cars, which are exactly alike, ex-

cepting one ($G^2$, figure 7) is twice as thick as the other, and the thicker one has a groove H over the key guard *k* of the connecting bar A. A notch *g* in each of these cars $GG^2$ receives one of the studs M of the locking car B when unlocked, as seen in figure 6, and *r* is a long opening for the studs *h* and *i* of the connecting bar. In size one of these cars G is nearly twice as large as the locking car B; one is on each side of the connecting bar A. The double-action locking car lies in a cavity of the connecting bar, and under the thinnest safety car $G^2$.

The safety cars always move on the double inclined track or way before described, and in a direction opposite to that of the locking car; they add strength and stability to the locking car, and prevent the locks being picked.

In the process of locking, the key is turned back instead of forward, as in other locks; the safety cars rise simultaneously to their utmost height; the double-action locking car then moves horizontally a short distance, after which it descends toward the back end of the case upon its inclined track or way, formed by studs *h* and *g*, the safety cars at the same moment descending toward the front end of the case on the double inclined track or way formed by studs *h* and *i* before described, until each reaches its lowest point, and there all three combine in firmly holding both the vibrating or connecting bar and bolt fast, as represented in figure 8, which shows the bolt as locked, the projection *p* being locked under the stud D, and the safety car G having dropped down behind stud M, which locks the whole together; to unlock the bolt, the safety car G must be first raised.

Figure 5 represents the form of the key; in locking, the aperture VV of the key passes around the guard *k* of the connecting bar A, and the bit N raises the safety car $G^2$, while at the same time the bit *t* entering the notch O of the double-acting locking car B, at first horizontally, and then in a descending backward oblique or inclined direction, until the projection of the car becomes fast under and against stud D, and holds the connecting bar A and bolt C
33 stationary. In unlocking a reverse movement is necessary, first raising the safety cars, as before stated.

What I claim as my invention, and for which I desire to secure an exclusive right by letters patent, is this, viz: I claim the peculiar construction and double action (upon an inclined or horizontal track or way) of the locking car B, as hereinbefore described, and the combination of the locking car B and safety cars $GG^2$ with one another, and with the connecting or vibrating bar or bolt A, as within described, so as to fasten the bolt C securely and prevent its being picked.

JOHN P. SHERWOOD.

Witnesses:
W. T. SHERWOOD,
JOHN NEWTON.

*Exhibit "RR, H. Sproul."*

THE UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, greeting:

This is to certify, that the annexed are true copies from the files and records of this office of the papers, with the patent as reissued, in the application of Calvin Adams, assignee of J. P. Sherwood, for a reissue of letters patent issued to Sherwood, December 17th, 1842, upon which application letters patent were reissued to Adams, May 13th, 1851; the copy of the specification showing the erasures, interlineations and marginal writing in ink and pencil, as they appeared in the original.

{Seal of the Patent Office.} In testimony whereof, I, S. T. Shugert, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereto affixed this 15th day of March, A. D. 1859, and of the independence of the United States the eighty-third.

S. T. SHUGERT, *Acting Com'r.*

To the Honorable Commissioner of Patents:

The petition of Calvin Adams, of Pittsburg, in the county of Allegheny and State of Pennsylvania, respectfully represents:

That the within named John P. Sherwood was the original and first inventor of certain new and useful improvements in locks, for which letters patent of the United States were granted him on the 17th day of December, A. D. 1842. That by an instrument in writing, duly executed and recorded in the Patent Office, the
34 whole of the right, title and interest in and to said patent is assigned to your petitioner. That your petitioner now believes the said letters patent to be inoperative and invalid by reason of a defective specification, which defect has arisen from accident, inadvertence, or mistake. He therefore prays that he may be allowed to surrender, and hereby does surrender the same, and requests that new letters patent may be granted to him for the residue of the term for which the original patent was granted, upon the amended specification herewith presented, he having paid fifteen dollars into the treasury of the United States, and complied with other provisions of the said act.

CALVIN ADAMS.

COUNTY OF WASHINGTON,
*District of Columbia, ss:*

On the 1st day of May, A. D. 1851, before the subscriber, a justice of the peace in and for said county, personally appeared the within-named John P. Sherwood, and made solemn affirmation that he verily believes himself to be the original and first inventor of the within-described improvements in locks; and that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

L. S. SMITH,
*Justice of the Peace.*

CITY AND COUNTY OF WASHINGTON,
*District of Columbia, ss:*

On this 26th day of March, A. D. 1851, before the subscriber, a justice of the peace for said city, personally appeared the within-named Calvin Adams, and made solemn oath that he verily believes the within-named John P. Sherwood to be the original and first inventor of the herein-described improvements in locks for doors; that he does not know or believe that the same was ever before used or known; and that both he and said Sherwood are citizens of the United States.

T. C. DOWN, *J. P.*

To all whom it may concern:

Be it known that I, John P. Sherwood, of Sandy Hill, Washington county, and State of New York, have contrived and invented some new and useful improvements, not known or used before, in the construction and manufacturing of door locks, or cased fastenings, in which the movements are contained between the sides of the case, and the following is an exact and full description thereof, reference being had to the accompanying drawings, which form part of this specification. Every part of my fastening may be made of cast iron, and for the most parts it is the cheapest material. My first improvement is in the case E, fig. 6, which I make double faced; each face projects over the sides and back end; the front end has no lip or projection on, like ordinary iron cases, but its edges are plain and covered by the two face plates; the aperture for the bolt in the front end of said lock is as wide as said end, so that the moulder may dispense with setting a core. And a stay, marked S, (with the screw holes through it,) from $\frac{3}{4}$ to $1\frac{1}{2}$ inches wide, and from $1\frac{1}{2}$ to 3 inches long, rises on the lower front corner of each face, protecting the bolt hole. This improvement facilitates and cheapens the casting of a case by lowering the sides and ends, and doing away with the setting of a core. It also fits every outside case, for either a right or left hand door, without turning the lock or latch upside down; and it renders the lock stronger and more durable. A glance at the drawing shows its peculiarities and their use. The inside of the case is cast with common fixtures, such as friction plates, studs and braces, to keep the bolt and other detached pieces in their respective places. My second improvement is in making the bolt with notches, one on its lower and one exactly similar on its upper edge, so that, in connection with the vibrating or connecting bar, A, a horizontal motion is given to the bolt, and also adapts it, by simple reversion, to a right or left hand door. Each is cut perpendicularly, and extends through one-third part of the bolt, reducing the bolt in the centre, between the two notches, to one-third its original size.

Figure 1 shows the bolt with its two similar and opposite notches, *aa*, its back end, *b*, forked so that it may pass a screw, and its front end, *c*, beveled to make one bolt answer for both lock and latch.

Figure 2 exhibits the vibrating or connecting bar, A, for moving the bolt, which is a very irregular shape, and nearly fills the upper half of the case. Its lower front corner, *d*, projecting downward, is made to fit in the notch, *a*, in the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner *e* shows a small hole for a screw on which it vibrates, and near by *f* shows a large one for the handle. Nearly all of the back end of this bar is made quite thin, as at $A^2$, leaving space between it and the case on one side for one sliding car or impelling weight, and on the other side for two sliding cars, hereinafter described.

On each side of this bar are three studs, *g*, *h*, *i*, in height equal to the original thickness of the bar, and a curved key guard, *k*, not quite as high as the studs, which shield the locking car. Stud *g* is at the lower back corner *h* near the centre, and *i* above and back of *h*. Each stud on one side has a corresponding stud, similar and similarly situated, on the opposite side; *h* and *i* form an inclined track or way, *i* being placed obliquely above *h*, toward the front end of the case, and as the corresponding studs on the opposite side of the bar form a similar track or way, we have a double inclined track or way for the safety cars (hereinafter described) to pass up and down. A little above the corner stud, *g*, a notch, *l*, opens upon the back end of the bar toward a point below the centre of stud *h*, a passage way for the stud *m*, of the double-action locking car B, hereinafter described.

36

Figure 3 represents the double-action locking car B, of which the exact form can only be learned from a model or drawing. It is a thin plate with a stud *m*, near one corner on one side, and a much shorter stud directly opposite on the other side. These studs add power to this car and connect it with safety cars $GG^2$, hereinafter described, in a way that holds the three cars fast together when locked. The large notch *n* gives room for the double-action locking car B passing the stud *h* of the connecting bar A. The sides of this notch *n* are in one part horizontal, and in another oblique or inclined. In one part of its movement on the studs *h* and *g* of said connecting bar it is horizontal, and in another inclined. The studs *h* and *g* of the vibrating or connecting bar A thus become at different periods a horizontal and an inclined track or way for the locking car B to move upon. The small notch O admits the key (fig. 5) by which the car is moved. An acute angular projection *p*, near stud *n*, catches under a stud D, on the side of the case E, when locked (as seen in fig. 8) and fastened to the car.

The locking is effected by a compound and backward movement of this car B, which is new and peculiar to my lock. Another car, exactly like this, and with similar action, may be attached to the other side of the connecting bar if greater security be desired. G (figures 4 and 7) shows the shape of the two safety cars, which are exactly alike, except that one, $G^2$, (fig. 7,) is twice as thick as the other, and the thicker one has a groove H, over the key guard *k*, of the connecting bar A. A notch *q* in each of these cars $GG^2$ receives one of the studs *m* of the locking car B, when unlocked, as seen in figure 6;

and *r* is a long opening for the studs *h* and *i*, of the connecting bar B. One is on each side of the connecting bar A.

The double-action locking car lies in a cavity of the connecting bar, and under the thinnest safety car $G^2$. The safety cars always
37 move on the double inclined track or way, before described, and in a direction opposite to that of the locking car, and prevent the locks being picked.

In the process of locking, the key is turned back instead of forward, as in other locks; the safety cars rise simultaneously to their utmost height; the double-action locking car then moves horizontally a short distance, after which it descends toward the back end of the case upon its inclined track or way, formed by studs *h* and *g*, the safety cars at the same moment descending toward the front end of the case on the double inclined track or way, formed by stud *h* and *i*, before described, until each reaches its lowest point, and there all three combine in holding both the vibrating and connecting bars and bolt fast, as represented in fig. 8, which shows the bolt as locked; the projection *p* being locked under stud D, and the safety car G having dropped down behind stud *m*, which locks the whole together. To unlock the bolt, the safety car G must be first raised. Figure 5 represents the form of the key.

In locking, the aperture *vv* of the key passes around the guard *k* of the connecting bar A, and the bit *u* raises the safety car $G^2$, while at the same time the bit entering the notch O of the double-acting locking car strikes the back side of the notch, and moves the locking car B at first horizontally and then in a descending backward, oblique or inclined direction, until the projection of the car becomes fast under and against stud D, and holds the connecting bar A and bolt *c* stationary. In unlocking, a reverse movement is necessary, first raising the safety cars as before stated.

What I claim as my invention, and for which I desire to secure an exclusive right by letters patent, is making the cases in which the movements of locks and latches for doors are contained double-faced, or so finished that either side may be used for the outside, in order that the same lock or case fastening may answer for a right or left hand door, substantially as described.

I also claim the peculiar construction and double action (upon an inclined track or way) of the locking car B, as hereinbefore described, and the combination of the locking car B and safety cars $GG^2$ with one another, and with the connecting or vibrating bar and bolt A, as within described, so as to fasten the bolt *c* securely, and prevent its being picked.

CALVIN ADAMS.

Witnesses:
T. C. DOWN.
WM. W. KNIGHT.

38 *To the Commissioner of Patents:*

SIR: Having made application for a reissue of the letters patent granted to John P. Sherwood, the 17th December, 1842—

I hereby that you will be pleased to recognize my agents and attorneys, Messrs. Watson and Renwick, whom I hereby authorize and empower to alter and modify the specification and claim presented by me, to receive the patent when granted, and in general to demand and exercise all the rights and privileges that I myself would be entitled to, if personally present and acting in the premises.

Very respectfully, your ob't serv't,

CALVIN ADAMS.

PATENT OFFICE, *March* 28, 1851.

SIR: Your application for a reissue of letters patent granted to J. P. Sherwood, December, 1842, has in its turn been taken up for examination. It is also necessary that your assignment should be on file before such examination can be proceeded with.

THOMAS EWBANK, *Com'r.*

CALVIN ADAMS,
WATSON and RENWICK, *Washington, D. C.*

No. 8735. APRIL 15th, 1851.

In conformity to an act of Congress entitled "An act to promote the progress of the useful arts," approved the 4th of July, 1836, I have received of C. Adams, assignee of John P. Sherwood, Pittsburg, Pa., fifteen dollars, which sum has been placed to the credit of my account in the treasury of U. S., D. C., under the date of 27th March, 1851, and for which I have signed a receipt for a reissue door lock.

J. SLOANE,
*Treasurer of the United States.*

M. NOURSE,
*Acting Register of the Treasury.*

Registered: J. C. H.

WASHINGTON, *May* 1*st*, 1851.

SIR: Herewith we return the specification of J. P. Sherwood's lock, having procured his oath thereto.

Mr. Adams has likewise put on record an assignment of the whole right to the patent to himself. It is believed that all preliminaries are now complete, and it is hoped that you will examine
39 the case as soon as possible.

Yours, very respectfully,

WATSON & RENWICK.

Hon. THOMAS EWBANK,
*Commissioner of Patents.*

Reissue.—No. 201.

CALVIN ADAMS, assignee of JOHN P. SHERWOOD, of Pittsburg, county of , State of Pa.

DOOR LOCKS.

Received March 27th, 1851.
Petition, " " "
Affidavit, " " "
Specification, " " "
Drawing, } Old patent.
Model, }
Cert. dep.
Cash, $15.
Examined Renwick, May, 3, 1851.
Issue D. C. Lawrence, " 5, "
Patented December 17th, 1842.
Reissued May 13th, 1851.
4 Recorded vol. 2, page 199.
Watson & Renwick.
L. Washington, D. C.
Postponed; see letter, March 28, '51.
Specification to agent, May 1, 1851.

*Exhibit "SS, H. Sproul."*

THE UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office, of letters patent reissued to Calvin Adams, assignee of John P. Sherwood, May 13th, 1851.

In testimony whereof, I, S. T. Shugert, Acting Commissioner of Patents, have caused the seal of the Patent Office to be here-
[SEAL.] unto affixed, this 15th day of March, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the United States the eighty-third.

(Signed) S. T. SHUGERT.

40 THE UNITED STATES OF AMERICA.

No. 201. To all to whom these letters patent shall come:

Whereas Calvin Adams, of Pittsburg, Pa., assignee of John P. Sherwood, Sandy Hill, New York, has alleged that said Sherwood invented a new and useful improvement in door locks, (for which letters patent were issued to said Sherwood, dated December 17th, 1842; said Sherwood having assigned his right, title, and interest in the same to Calvin Adams aforesaid, and the said letters having been surrendered by him, the same have been cancelled, and new letters ordered to issue to said Adams on an amended specification,) which he states has not been known or used before Sherwood's application;

has made oath that he and said Sherwood are citizens of the United States; that he does verily believe that the said Sherwood was the original and first inventor or discoverer of said improvement, and that the same hath not to the best of his knowledge and belief been previously known or used; has paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in said improvement, and praying that a patent may be granted for that purpose.

These are therefore to grant according to law, to the said Calvin Adams, his heirs, administrators, or assigns, for the term of fourteen years from the 17th December, 1842, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description of which is given in the words of the said Calvin Adams, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these letters to
[SEAL.] be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand at the city of Washington, this 13th day of May, in the year of our Lord 1851, and of the independence of the United States of America the seventy-fifth.

ALEXANDER H. H. STUART,
*Secretary of the Interior.*

Countersigned and sealed with the seal of the Patent Office.

THOMAS EWBANK,
*Commissioner of Patents.*

41 *The schedule referred to in these letters patent and making part of the same.*

To all whom it may concern :

Be it known that I, John P. Sherwood, of Sandy Hill, Washington county and State of New York, have contrived and invented some new and useful improvements not known or used before in the construction and manufacturing door locks or case fastenings, in which the movements are contained between the sides of the case; and the following is an exact and full description thereof, reference being had to the accompanying drawings, which form part of this specification. Every part of my fastening may be made of cast iron, and for most parts it is the cheapest material. My first improvement is in the case E, figure 6, which I make double-faced; each face projects over the sides and back end. The front end has no lip or projection on, like ordinary iron cases, but its edges are plain and covered by the two-faced plates. The aperture for the bolt in the front end of said lock is as wide as said end, so that the moulder may dispense with setting a core, and a stay marked S, (with screw holes through it,) from $\frac{3}{4}$ to $1\frac{1}{2}$ inch wide, and $1\frac{1}{2}$ to 3 inches long, rises on the lower front corner of each face, protecting the bolt

hole. This improvement facilitates and cheapens the casting of a case, by lowering the sides and ends and doing away with the setting of a core. It also fits every outside case for either a right or a left hand door, without turning the lock or latch upside down, and it renders the lock stronger and more durable. A glance at the drawings shows its peculiarities and their use. The inside of the case is cast with common fixtures, such as friction plates, studs, and braces, to keep the bolt and other detached pieces in their respective places. My second improvement is in making the bolt with notches on its lower, and one exactly similar on its upper edge, so that, in connexion with a vibrating or connecting bar A, a horizontal motion is given to the bolt, and also adapts it, by simple reversion, to a right or a left hand door. Each is cut perpendicularly and extends through one-third part of the bolt, reducing the bolt in the centre, between the notches, to one-third its original size.

Figure 1 shows the bolt with its two similar and opposite notches, *aa*, its back end *b* forked so that it may pass a screw, and its front end *c* beveled to make one bolt answer for both lock and latch.

Figure 2 exhibits the vibrating or connecting bar A, for making the bolt, which is very irregular shape, and nearly fills the
42 upper half of the case. Its lower front corner *d* projecting downward, is made to fit in the notch *a*, in the top of the bolt, for the purpose of moving or fastening the bolt at pleasure. At its upper front corner, *e* shows a small hole for a screw, on which it vibrates, and near by *f* shows a large one for the handle. Nearly all the back end of the bar is made quite thin, as at $A^2$, leaving space between it and the case on one side for one sliding car or impelling weight, and on the other side for two sliding cars hereinafter described. On each side of this bar are three studs. *g h i*, in height equal to the original thickness of the bar, and a curved key guard *k*, not quite as high as the studs which shield the locking car. Stud *g* is at the lower back corner, *h* near the centre, and *i* above and back of *h*. Each stud on one side has a corresponding stud, similar and similarly situated, on the opposite side; *h* and *i* form an inclined track or way, *i* being placed obliquely above *h* toward the front end of the case; and as the corresponding studs on the opposite side of the bar form a similar track or way, we have a double inclined track or way for the safety cars (hereinafter described) to pass up and down. A little above the corner stud *g*, a notch *l* opens upon the back end of the bar toward a point below the centre stud *h*, a passage way for the stud *m*, of the double-action locking car B, hereinafter described.

Figure 3 represents the double-action locking car B, of which the exact form can only be learned from a model or drawing. It is a thin plate with a stud *m* near one corner, on one side, and a much shorter stud directly opposite on the other side. These studs add power to this car, and connect it with safety cars $GG^2$, hereinafter described, in a way that holds the three cars fast together when locked. The large notch *n* gives room for the double-action locking car B, passing through the stud *h* of the connecting bar A. The sides of this notch *n* are in one part horizontal, and in another oblique or inclined. In

one part of its movement on the stud *h* and *g* of said connecting bar it is horizontal, and in another inclined. The stud *h* and *g* of the vibrating or connecting bar A thus become at different periods a horizontal and an inclined track or way for the locking car B to move upon. The small notch O admits the key (figure 5) by which the car is moved. An acute angular projection *p*, near the stud *n*, catches under a stud D, on the side of the east E, when locked, (as seen in figure 8,) and fastened to the ear. The locking is effected by a compound or backward movement of this car B, which is new and peculiar to my lock.

Another car exactly like this, and with similar action, may be attached to the other side of the connecting bar, if greater
43 security be desired. G (figures 4 and 7) shows the shape of the two safety cars, which are exactly alike, except that one, $G^2$ (figure 7) is twice as thick as the other, and the thicker one has a groove H over the key guard *k* of the connecting bar A. A notch *q* in each of these cars $GG^2$ receives one of the studs *m* of the locking car B, when unlocked, as seen in figure 6, and *r* is a long opening for the studs *h* and *i* of the connecting bar.

In size, one of these cars G is nearly twice as large as the locking car B One is on one side of the connecting bar A. The double action locking car lays in a cavity of the connecting bar and under the thinnest safety car $G^2$. The safety car always moves on the double incline track or way before described, and in a direction opposite to that of the locking car. They add strength and stability to the locking car, and prevent the locks from being picked.

In the process of locking, the key is turned back instead of forward, as in other locks. The safety cars rise simultaneously to their utmost height. The double action locking car then moves horizontally a short distance, after which it descends toward the front end of the case upon its inclined track or way formed by studs *h* and *g*, the safety cars at the same moment descending toward the front end of the case on the double inclined track or way formed by studs *h* and *i* before described, until each reaches its lowest point, and there all three combine in firmly holding both the vibrating or connecting bar and bolt fast, as represented in figures 8, which shows the bolt as locked, the projection *p* being locked under stud D, and the safety car G having dropped down behind stud D, which locks the whole together. To unlock the bolt, the safety cars G must be first raised. (figure 5) represents the form of the key.

In locking, the aperture *vv* of the key passes around the guard *k* of the connecting bar A, and the bit *u* raises the safety car $G^2$, while at the same time the bit *t* entering the notch O of the double acting locking car, strikes the back side of the notch and moves the locking car B, at first horizontally, and then in a descending, backward, oblique, or inclined direction, until the projection of the car becomes fast under and against stud D, and holds the connecting bar A and bolt C stationary. In unlocking, a reverse movement is necessary, first raising the safety car as before stated.

What I claim as my invention, and for which I desire to secure an

exclusive right by letters patent, is making the cases in which the movements of locks and latches for doors are contained double faced,
or so finished that either side may be used for the outside,
44 in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described.

I also claim the peculiar construction and double action (upon an inclined and horizontal track or way) of the locking car B, as herebefore described, and the combination of the locking car B and safety cars GG² with one another, and with the connecting or vibrating bar and bolt A, as within described, so as to fasten the bolt C securely, and prevent it being picked.

CALVIN ADAMS.

Witnesses :
J. C. DOWN.
WM. W. KNIGHT.

45 UNITED STATES OF AMERICA,
*Western District of Penn'a, ss:*

I, Henry Sproul, clerk of the circuit court of the United States for the western district of Pennsylvania in the third circuit, do hereby certify that I have carefully examined the record in the case of J. K. Morehead & Co. *vs.* James Wallingford & Co., heretofore certified on an appeal to the Supreme Court, and find that I inadvertently omitted in said record the printed pages hereto annexed, and that said testimony is now on file in the court, and ought to have been inserted in said record.

In testimony whereof, I have hereunto set my hand and affixed the
[SEAL.] seal of the said court, at Pittsburg, this eighth day of February, 1864.

H. SPROUL, *Clerk.*

Filed 10th February, 1864.

IN THE

# Supreme Court of the United States,

No. 165 DECEMBER TERM, 1863.

J. Hervey Jones, Alexander M. Wallingford, William K. Nimick and Alexander Nimick, Partners as Jones, Wallingford & Co. Appellants,

*versus*

James K. Moorhead, Laureston R. Livingston, William B. Copeland, Calvin Adams and David M'Kee, Partners as Livingston, Copeland & Co.

## BRIEF AND ARGUMENT ON BEHALF OF THE APPELLEES.

WM. BAKEWELL, Counsel for Complainants.

Appellees.

IN THE

# Supreme Court of the United States,

No. 165 DECEMBER TERM, 1863.

**J. Hervey Jones, Alexander M. Wallingford, William K. Nimick and Alexander Nimick, Partners as Jones, Wallingford & Co. Appellants,**

*versus*

**James K. Moorhead, Laureston R. Livingston, William B. Copeland, Calvin Adams and David M'Kee, Partners as Livingston, Copeland & Co.**

## BRIEF AND ARGUMENT ON BEHALF OF THE APPELLEES.

### STATEMENT.

The appellees, Livingston, Copeland & Co. who were complainants in the court below, on the 4th December, 1847, filed a bill in equity against the appellants, Jones, Wallingford & Co. for an infringement of certain letters patent, granted on the 17th December, 1842, to John P. Sherwood, for an improvement in *door locks*. The bill sets forth:

The grant of letters patent to Sherwood on 17th December, 1842.

Assignment of said patent to Calvin Adams in November, 1850, and *reissue* of said patent on 13th May, 1851, to Calvin Adams, one of the complainants, on an amended specification.

That in October, 1855, the patent being about to expire, said John P. Sherwood applied for an extension of his patent.

Assignment dated October , 1855, by John P. Sherwood to Calvin Adams, of the said patent for the extended term, in case the extension should be granted.

That the Commissioner of Patents having held that a patent could not be extended unless the patent was issued in the name of the inventor, and this patent having been reissued in the name of Calvin Adams, it became necessary to put the title back in Sherwood; to effect which,

On 16th September, 1856, Calvin Adams assigned said patent to the inventor, John P. Sherwood, for the remainder of the unexpired term of said patent, to wit: *until the 17th December*, 1856, and

On 7th October, 1856, new letters patent, reissue No. 401, were issued to Sherwood for the residue of the original term, yet unexpired.

On 24th September, 1856, John P. Sherwood executed a new assignment of the extension of said patent to Calvin Adams, which was recorded within three months from the date thereof, on 16th December, 1856.

That on the 15th December, 1856, the Commissioner of Patents extended said patent for a term of seven years from the 17th December, 1856, and the patent, with certificate of extension thereon, was delivered to the assignee, Calvin Adams.

That previous to the first application for extension, John P. Sherwood entered into an agreement with Calvin Adams, to assign to him the extended term of said patent, if granted, and to do all things necessary to procure the extension; said Adams agreeing to pay all expenses in procuring the extension, paid to Sherwood the sum of five hundred dollars on execution of the agreement, and agreed to pay him a further sum of five hundred dollars at the Fort Edward Bank, within ten days from the time the extension should be granted (see record, folio 6).

That Calvin Adams paid Sherwood five hundred dollars on the execution of said agreement in October, 1855, and before the extension of said patent, the further sum of one hundred and twenty dollars; and that in pursuance of said agreement, Adams, on the 18th October, 1856, tendered to Sherwood the

further sum of five hundred dollars, which sum Sherwood instructed him to pay into the Fort Edward Bank to his, Sherwood's, credit; and that Adams paid said money to Sherwood's credit, and in his presence, into said bank, being the balance in full for the purchase of the extended term.

That Calvin Adams having thus vested in him the exclusive right to said patent for the extended term, by assignment dated 3d January, 1857, and duly recorded on 12th January, 1857, assigned the same to the complainants, Livingston, Copeland & Co.

That until said Adams had become the owner of said original patent, in November, 1850, the said invention had not been known or used to any great extent, but that since that time he and his associates in business, had, at great expense, introduced said patented locks into public use, and created a large market for them, to the great benefit of the public.

That the respondents, Jones, Wallingford & Co. had, without permission from the complainants, made and sold, and were making and selling, large numbers of said patented locks, at their manufactory in Pittsburg.

The bill further set forth, that the respondents, Jones, Wallingford & Co. had combined with said Sherwood to deprive said Calvin Adams of his right to said patent for the extended term; and that said respondents, and particularly J. Hervey Jones, after the assignment by Sherwood to Adams of said extended term of said patent, visited Sherwood, at Fort Edward in the State of New York, and by the promise and payment of money, caused him to execute an assignment, dated 2d December, 1856, purporting to assign said patent, or any extension thereof, to said Jones, which assignment was recorded on 9th December, 1856.

That the respondents, and particularly said Jones, procured another assignment, dated 18th December, 1856, from said Sherwood, for said extension of said patent, and any other or further term of extension which might be granted, which was recorded on 29th December, 1856.

That said assignments were collusive and fraudulent, and were procured by the respondents with the knowledge of the prior assignment of said extended term to said Adams.

The bill prayed that said pretended assignments might be declared fraudulent and delivered up to be canceled, and further prayed for an injunction and account.

The respondents, on 18th February, 1858, filed their answer, in which they admitted the issue of the original patent, the sale and reissue to Adams, and the subsequent reissue to Sherwood; but they denied the assignment by Sherwood to Adams of 24th December, 1856, alleging that the same was deposited with William Bakewell, and not to be delivered to Adams without further direction, and statement in writing from Sherwood that Adams had paid to him the unpaid balance of one thousand dollars, which he was to pay Sherwood for the extended term, and also a reasonable sum for the use of a latch; and that it was agreed that on repayment by Sherwood to Adams of the amount he had paid him, and the expenses of procuring the extension, the assignment was not to be delivered to Adams; and that in January, 1857, and afterward. Sherwood offered to repay to Adams the amount he had advanced and expended.

The respondents admitted that they had at times since 3d January, 1857, manufactured door locks made as described in the patent, but asserted they had a right to do so; and set up the two assignments by Sherwood to Jones, dated 2d December, 1856, recorded 9th December, 1856, and of 18th December, 1856, recorded 29th December, 1856.

On 3d April, 1858, the respondents filed a cross bill against the complainants (record, folio 43), in which they assert that John P. Sherwood was the original inventor of the improvement in door locks described in the patent of 17th December, 1842, recite the reissues and extension thereof, set up their title to said letters patent for the extended term, allege that the complainants, Livingston, Copeland & Co. were manufacturing said locks, and assert that the assignment to Adams was fraudulently delivered to him, and pray an injunction and account.

To this cross bill the complainants, Livingston, Copeland & Co. on 3d May, 1858, filed their answer, setting up their title as stated in their original bill, and assert that the interest of said Adams in the extended term of said patent was set forth

in the statement filed in the U. S. Patent Office in October, 1856, in the matter of his application for the extension of said patent, and that Jones was bound to take notice thereof.

They asserted that Sherwood, by assignment dated October, 1855, and by a further assignment dated 24th September, 1856, assigned the patent for the extended term to Calvin Adams, and that the latter assignment was recorded within three months after the execution and delivery thereof. They denied that there was any condition annexed to the delivery of the latter assignment, but asserted that it was delivered absolutely to said Adams at the execution thereof: and asserted that Adams had fully complied with his agreement, and had paid to Sherwood the full consideration for the purchase of the extended term.

Replications having been filed to the answers, the parties proceeded to take testimony in the question of the title to the patent for the extended term, that being the only question at issue; both parties having asserted that John P. Sherwood was the original and first inventor of the improvement described in the letters patent, and the respondents having admitted that they were manufacturing locks as described in the said patent.

After the taking of testimony, the respondents, finding that they conld not sustain their title, petitioned the court for leave to amend their answer, which was granted on 27th November, 1858.

In the amended answer, the respondents alleged that John P. Sherwood was *not the first inventor* of the improvement specified in his patent, but that the same was made and publicly known prior to any invention thereof by Sherwood, by sundry persons in various places (see record, folios 151–154).

Further testimony was then taken and proof offered on the question of novelty of the invention; and on hearing of the case, the court held that the defendants had not succeeded in establishing the defence pleaded in their amended answer, and a decree was entered and injunction issued as prayed for in the bill; and it was referred to a master to ascertain and compute the damages and state an account: and on coming in of the report, a decree was entered for complainants for the sum

of $13,282.92 and costs, and for one cent on the case of Adams and Jones, without costs.

From the foregoing statement it will be seen that the questions arising in this case are—

I. The title to the patent for the extended term.

II. The validity of the patent.

III. The amount of damages.

## I. Title to the Patent for the Extended Term.

The claim set up by the respondents, in their answer to the original bill, and in their cross-bill, that they held a valid title to the extended term of the patent, was virtually abandoned on the hearing of the case in the court below.

The complainants' title is as follows:

October, 1855. Agreement between J. P. Sherwood and Calvin Adams; Adams agreeing to pay the expenses of the extension, and the sum of five hundred dollars in hand, and the further sum of five hundred dollars at the Fort Edward Bank within ten days after the extension of the patent. (Record, folio 6.)

October, 1855. Assignment by John P. Sherwood to Calvin Adams, of the said patent, to the full end of the term for which said letters patent for extension are or may be granted. (Record, fol. 7.)

September 24th, 1856. Assignment by John P. Sherwood to Calvin Adams, of the said invention and letters patent, for the full term of seven years, for which said letters patent may be extended. (Record, fol. 10.)

In his first application for extension, filed October 18, 1855, (record, fol. 110,) Sherwood states: "I have received from Calvin Adams the sum of five hundred dollars, as an absolute payment, he running the risk of the extension of my patent for the term of seven years from the date of its expiration; and if the patent is extended, as prayed for, I shall receive for my invention a further amount," &c.

This application for extension was canceled; and in the new application for extension, filed September 26th, 1856, (under which extension the respondents pretend to claim title,) Sherwood repeats the statement of the sale of the extended term to Adams.

Jones, one of the respondents, was aware of the application of Sherwood for the extension of his patent, for he was negotiating with him to purchase it, during its pendency; and he was bound to take notice of a fact so plainly stated on the records of the Patent Office.

It is not pretended that Calvin Adams failed to comply with his agreement to procure the extension of Sherwood's patent, and pay all expenses thereof.

It is in evidence, (record, fol. 84–5,) that on the 20th December, 1856, five days after the extension of the patent, Calvin Adams, in pursuance of his agreement of October, 1855, and the terms of the assignment of 24th September, 1856, paid to the credit of Sherwood in the Fort Edward Bank, the sum of five hundred dollars, (there being only three hundred and eighty dollars then due,) and that between the 27th December, 1856, and 21st January, 1857, Sherwood drew out of the bank, on the credit of this deposit, the sum of four hundred and seventy-five dollars fifty cents ($475.50); and that he had no other deposit at the bank at that time.

But, it is alleged that the assignment of Sherwood to Adams, of 24th September, 1856, was not delivered absolutely to Adams, but was handed to W. Bakewell, to deliver to Adams, on being informed that he (Adams) had paid the balance due. This is positively contradicted by W. Bakewell's testimony, (see record, fol. 98–99,) who proves that this assignment was delivered unconditionally to Adams, and that he (Bakewell) took it to Washington City, and handed it to A. B. Stoughton, who was employed with him by Adams to procure the extension, and that it was put on record by Stoughton on 16th December, 1856, after the extension was granted, and within three months after its execution. (See also A. B. Stoughton's testimony, fol. 86–92.)

It is asserted that Adams agreed that, on repayment to him

by Sherwood, of the money paid to him by Adams, and the expenses of the extension, the assignment was not to be delivered to Adams. But this is in itself highly improbable; it is contradicted by the testimony of W. Bakewell, and there is not a particle of proof that Sherwood ever repaid, or even offered to repay to Adams any part of the money paid by him, and the expenses of procuring the assignment.

The assignments of October, 1855, and September, 1856, of the extended term, to Calvin Adams, were valid, although the extension was not then granted. In *Cartwright vs. Amatt*, 2 B. & P. 43, it was decided that a covenant to assign a patent upon the happening of a given event, will, as soon as the event happens, amount to an actual assignment, and entitle the covenantee to sue as *legal* owner.

The inchoate right of an inventor to an extension of a patent for his invention, is the subject of a contract of sale. *Clum vs. Brewer*, 2 Curt. 520; *Pitts vs. Hall*, N. Blatch. Y. 1854.

Such an interest may be assigned, if the terms of the assignment clearly include the renewed patent. *Phelps vs. Comstock*, 4 M'Lean, 355; *Case vs. Redfield*, 4 M'Lean, 528; *Gibson vs. Cook*, 2 Blatch. 146.

An agreement made by a patentee, who is about to apply for an extension of his patent, with another party, that in case of renewal, he will convey to him such renewed patent, in consideration of a sum certain, is valid, and is held to pass a legal title, on payment, or an offer to pay, the consideration; on failure of the payment, the patentee has no right to revoke a power of attorney, and assign the patent to another party. *Hartshorn vs. Day*, 19 How. 220.

Where a patent is extended, its effect is the same "as though it had been originally granted for the term of twenty-one years," by the terms of the act of 4th of July, 1836, § 18. And it was held, on this ground, that a reissue is allowable after extension. *Wilson vs. Rosseau*, 4 How. 646.

Where a party has acquired an inchoate right an assignment of such right is legal. *Gayler vs. Wilder*, 10 How. 493; *Rich vs. Lippincott*, 26 Jour. Frank. Inst. 3d Ser. 13.

An assignment of an invention before patent granted, vests a

*legal* title to the patent (when granted) in the assignee. *Gayler vs. Wilder*, 10 How. 493; *Herbert vs. Adams*, 4 Mason, 15; *Nesmith vs. Calvert*, 1 W. & M. 41.

The title of respondents rests solely on two assignments from Sherwood, dated respectively, 2d December, 1856, and 18th December, 1856, both subsequent in date to either of the assignments to the complainant, Adams. The former was recorded on 9th December, 1856, before the recording of the second assignment to Adams. The latter was recorded on 29th December, 1856, *after* the recording of the assignment to Adams.

But the assignment of Sherwood to Adams, dated 24th September, 1856, and recorded 16th December, 1856, being prior in date to the assignment to Jones, and being recorded within three months from the date of its execution, gives a perfect title to Adams, which could not be affected by any subsequent assignment of later date, because "by requiring the recording to be within three months, the act, in effect, allows the full period for the benefit of the assignee, without any imputation or impeachment of his title for *laches* in the intermediate time." *Pitts vs. Whitman*, 2 Story, 609–614; act of 4th July, 1836, § 11.

Besides, Adams did not need to record his assignment of the extended term, until the extension was granted. It was recorded on the very next day.

The re-assignment from C. Adams to J. P. Sherwood, dated 16th September, 1856, cannot have any effect to impair the effect or validity of the assignments by Sherwood to Adams of the extended term; because—

1st. It was prior in date to the assignment of 24th September, 1856, to Adams, of the extended term.

2d. It did not purport to vest in Sherwood all of Adams' interest in the patent, but only an interest therein, from the date of assignment, 16th September, 1856, "until the 17th December, 1856," and did not revest in Sherwood any title for the extended term; therefore, it could not interfere with Adams' right under the assignments of October, 1855, and September, 1856.

Moreover, it was only designed to overcome the obstacle to the extension, which existed in the erroneous idea of the Commissioner, that a patent could not be extended when issued in the name of an assignee, and was solely for the purpose of having the patent reissued to Sherwood, which was done on 7th October, 1856. This is evidenced by the fact that on 24th September, 1856, John P. Sherwood assigned the patent for the balance of the original term, *i. e.* until 17th December, 1856, to Livingston, Copeland & Co. (See record, fol. 115.)

## II. The Validity of the Patent.

The patent granted to Sherwood on 17th December, 1856, was for an improvement in door locks, which has since been widely known as the *Janus-faced door lock.*

The only question which arises on the proceedings is, whether or not John P. Sherwood was the first inventor of the improvement or thing set forth in the letters patent.

The respondents having, in their original answer and cross bill, not only admitted the validity of the patent, and asserted that Sherwood was the original and first inventor of the improvement, and that they had been making and selling locks having substantially the improvements mentioned and specified in the patent as stated in complainants' bill, *but also sworn* to these statements and admissions, and having been allowed to amend their answer *only* as to the point that the invention claimed had been known and used prior to Sherwood's invention, they must be held to the strictest proof of the assertion, and no other questions affecting the validity of the patent can be raised or discussed.

The value and importance to the public of this invention, is admitted by the respondents in their answer, and is abundantly evidenced by their efforts to supplant the complainants in their title to the patent for the extended term.

The lock which is the subject of this patent is what is called a cased fastening, designed to be used on the outside of doors, and in this respect differs from mortise locks, which are

let into the door in a mortise cut into its outer edge. Such cased fastenings were chiefly imported from England, and were made of wrought or sheet iron. One side only of the lock was *finished*, so as to be suitable for the outside; on the other side the works were covered up and enclosed, but not in such a manner as to adapt it to be placed on the door with the inner side exposed to view. In other words, such locks had a *wrong* and a *right* side. Now as doors may be hinged to either of the jambs or door posts, a lock suitable to a door opening in one direction would not answer for a door opening in the other direction, unless, indeed, the lock were turned upside down, which would be unsightly, because the key-hole would be wrong side up. For this reason, manufacturers made both right hand locks and left hand locks; and a carpenter or builder, before purchasing locks for a house, had to ascertain which of these kinds of locks was wanted, which depended on the direction in which the doors opened, or which side of the door the lock was wanted for. Sherwood's invention obviated all this difficulty at once, by making door locks cased on both sides and so finished that either side may be used for the outside. They are, therefore, called Janus-faced right and left door locks.

Prior to the purchase by Adams of Sherwood's patent in November, 1850, Adams had been endeavoring to construct a right and left door lock, and had obtained two patents therefor, viz.: Patent to Livingston, Roggen & Adams, of 1st May, 1849, and additional improvement thereto, dated June 5, 1849. But these, although right and left locks, were not double faced, but were intended to turn upside down, and not either side out. These were, however, subsequent in date to Sherwood's invention of the *Janus-face*. Adams then invented the Janus-faced lock, and applied for a patent, but was rejected on Sherwood's patent of 17th December, 1842, which resulted in his purchasing Sherwood's patent and proceeding at once to manufacture and sell it largely. Adams, therefore, was an original but not the first inventor, and is very meritorious as having been instrumental in introducing the invention into public use, which Sherwood had not the means of doing.

Sherwood's invention is, therefore, not merely a right and left door lock. but a double faced right and left door lock.

It is a *door* lock, by which is understood a lock for a particular purpose; it is not a padlock, nor a drawer lock, nor a gate lock, but a lock adapted for use in house work, to be placed on doors.

To adapt it to this purpose, and to fit it to use on either side of a door, or on either face of a door (for there are four positions in which a lock may be placed on a door), it must have the following features:

1st. It must be so made that the finish on both sides is alike, or equally adapted for being the outside.

2d. It must be so arranged that the latch bolt and locking bolt will both enter the keeper properly whichever side is turned out.

Sherwood accomplishes these objects,

1st. By placing the locking bolt close to the inner surface of both sides of the case, or at least equally distant from either side.

2d. Casing both sides of the lock alike, with such a case as is suitable for an exterior finish.

3d. Making the latch bolt (which is pushed back to enter the keeper when the door is closed) reversible, so that the beveled side will be toward the keeper, whichever side of the lock is used for the outside.

In the lock as invented by Adams, he substitutes for the last feature (the reversible bolt) a blunt latch bolt and a beveled keeper, so that the latch bolt need not be reversed, as the bevel on the keeper serves to push back the blunt latch bolt as effectually as the old fashioned keeper pushed back the beveled latch bolt. For this blunt latch bolt and beveled keeper Adams obtained a patent on 24th February, 1857, which was also infringed by the respondents, and was the subject of another suit.

It is evident, therefore, that a lock may be a right and left lock without being a Janus-faced lock, and that a lock may be closed on both sides without being a Janus-faced right and left lock.

It will be remembered that Sherwood's lock, as patented, combines both of these features, and adds to these that the lock is so finished on both sides as to be equally well adapted for use with either side for the outside.

The respondents offered in evidence to prove prior knowledge and use of Sherwood's invention, the following locks:

1. A lock from the outer iron railing gate of the Custom House, New York. *Exhibit* A A, *H. Sproul.*

2. A lock from the front gate (an open iron gate) of the City Hospital, New York. *Exhibit* B B, *H. Sproul.*

3. A lock from the gate of the keeper's lodge (an open iron gate) of the City Hospital, New York. *Exhibit* C C, *H. Sproul.*

4. A lock from the centre gate of St. Mark's Church, New York, an open iron gate on the fence in the street. *Exhibit* D D, *H. Sproul.*

5. A lock from the western gate of the basement of the City Hall, New York (an open iron gate). *Exhibit* E E, *H. Sproul.*

None of these locks but the Custom House lock, A A, [redacted], have latch bolts; all the others are dead locks—that is, have only a locking bolt.

The respondents offered in evidence wooden models of these locks, which failed to show the peculiarities of finish of the originals.

The complainants produced in evidence the original locks, which speak for themselves, and afford abundant evidence that they in no respect contain the patented features of Sherwood's lock.

William Bullock, who procured these original locks and brought them on to Pittsburgh to be used in evidence in this case, testifies in regard to them as follows:

As to the Custom House lock, exhibit A A: Q. 14. "The lock case has not a finish on both sides for the purpose of applying it to a door opening either to the right or left." Q. 15. "It differs from a Janus-faced lock in this, that a portion of the edges are formed by bending down the outside case so as to leave the corners rounded, and the bolts are nearer one side than the other, so that the same keeper would not answer if the lock were reversed, and the latch bolt beveled on one side would not hold the door together if the lock were reversed." Q. 18. "It is a *left hand* lock." Q. 20. "If a lock case similar to this were wanted for a right hand lock, it would have to be made the reverse of this one; the bevel of the

latch would have to be on the other side of the latch, and *the key hole the other end down.* The latch bolt is *not* so constructed and arranged in connection with the other parts of the lock by which it is operated, as that it is susceptible of reversal without altering the other parts of the lock, so as to bring the bevel of the latch in a proper position for a right hand lock."

As to the City Hospital lock, B B: Q. 24. "It was on an open iron gate." Q. 29. "I consider it a gate lock for iron gates; not suitable for a house." Q. 31. "There is a material difference in the construction and finish of the two faces of this lock. A portion of the plate from which the outside of the lock is made is turned down so as to form the ends and cover over the edge plates, so as not to show any joints on the outside face of the lock, which I call the face, and on the opposite side of the lock the plate is fitted in between two of the edge plates, which would leave the joints in view, should the lock be put on that side of the door." Q. 32. "It is not equally well adapted to a door opening to the left hand as to a door opening to the right hand."

As to the Hospital lock, C C, he says: Q. 34. "This is a dead lock, adapted to an iron gate—a right hand lock; the words 'Keeper's Lodge' are written on the outside." Q. 37. "The bolt is much nearer one side than the other, so that the keeper would not answer were the lock reversed." Q. 38. "The end plates are formed by bending down a portion of the face plate, thereby giving greater strength to the face plate, so that the lock cannot be so easily forced open when secured to the door or gate as it could be if placed the other side out."

As to the St. Mark's Church lock, D D: Q. 40. "It is constructed for a right hand lock, and is only suitable to be put one side out; one plate being sunk about three-eighths of an inch below the edge plates, it would be entirely unsuitable to be placed that side out. Also, the bolt is in one side of the lock, close to the face plate, so that the keeper would not answer if the lock should be upon the door the reverse side out." Q. 41. "The inside plate is attached to the lock by two screw bolts, with nuts on the outside of the plate."

As to the City Hall lock, exhibit E E: "It is a dead lock, suitable for an iron gate. Not what I call a door lock; not finished alike on both sides."

These four locks being all the instances offered of public knowledge and use of Sherwood's invention prior to the date of his patent, it becomes important to ascertain what proof there is of the dates at which they were first used.

The lock from the Custom House is stated by S. S. Day to have been made by him in August, 1840. This is the only lock in regard to which there is any definite evidence as to its age; but even on this point he was contradicted by Patrick M'Caffrey, who fixes the time at about 15 years, which, as the testimony was taken in October, 1858, would be after the date of Sherwood's patent.

But S. S. Day, the maker of this lock, says (record, folio 137) that it is a left hand lock, and that to adapt it for a right hand lock the bevel of the bolt would have to be reversed, or made *exactly the reverse* of what it is, and (Q. 9) that made as it is "the latch bolt would not be capable of being turned over to reverse the bevel, *it being made for a left hand lock only.*" This is the respondent's witness, and he entirely negatives the idea that this was a right and left hand lock, much less a double faced lock. Such an idea never entered the mind of the maker of this lock, and subsequent suggestions of how this lock might now be altered to make a right and left lock of it, prove nothing whatever.

As to the Broadway Hospital locks, John L. Roome is the only witness to its age. He was employed there as clerk in December, 1840, when he was eighteen years of age, and he cannot swear positively that the locks offered in evidence are the same that were there when he went there. He thinks they were. It is clear that the locks might have been changed at any time without his attention being drawn to the fact; and even if he is right in his supposition, it would fix December, 1840, as the date of their first use, which is not over two years prior to the date of Sherwood's patent; and as they do not prove who made them, this testimony is certainly insufficient to invalidate the patent.

As to the lock from St. Mark's Church, we have the same indefiniteness as to its age. C. Brady and J. Robinson, the sextons, are the witnesses. Brady knew the lock to have been there 13 years. As the testimony was taken in October, 1858,

this would carry it back to 1845, or three years after the date of Sherwood's patent. Robinson was deputy sexton 14, 15, 16 or 17 years prior to October, 1858. But Sherwood's patent was granted 16 years before the date of taking the testimony, so that there is absolutely no proof that this lock is older than Sherwood's patent.

As to the lock from City Hall, its age is attempted to be proved by Sarah Huring. She had been engaged at the City Hall since 1851, and her mother before her. She had played on the gates when a child. As she was only 12 years old when Sherwood's patent was granted, it is not to be supposed that her evidence that the locks are the same as those which were there then, can be at all relied upon. Surely such evidence cannot be received to destroy a patent; the locks might have been changed without attracting the attention of a child of 12 years of age; and it is highly improbable that such locks placed in an exposed situation, on an open iron railing gate, would last for 15 or 16 years without being destroyed by rust.

Thus it will be seen that there is no evidence sufficient to fix the age of any of these locks with such certainty as would warrant the court in deciding that they ante-date Sherwood's invention; that there is none of them that does not differ in some respect from Sherwood's lock; there are none of them alike on all sides, and they are not adapted by construction or finish to be used equally for a right or left hand door; they are all of them made of wrought iron, and with the exception of the Custom House lock ~~and St. Mark's Church lock~~, are all dead, locks, that is, have no latch bolt.

Sherwood describes his invention as follows, (see record, folio 103):

"My first improvement is in the case, which I make double-faced; each face projects over the sides and back. The front end has no lip or projection on, like ordinary iron cases, but its edges are plain and covered by the two face plates. The aperture for the bolt in the front end of the lock is as wide as said end. This improvement facilitates and cheapens the casting of a case by lowering the sides and ends, and doing away with the setting of a core. It also fits every outside case for either a right or left hand door, without turning the lock or latch up-

side-down, and it renders the lock stronger and more durable.

"My second improvement is in making a bolt with notches, one on its lower and one exactly similar on its upper edge, so that in connection with the vibrating or connecting bar A, a horizontal motion is given to the bolt, and also adapts it, by simple reversion to a right or left hand door."

The two principal claims are as follows:

"What I claim as my invention, is making cases of door locks or latches double-faced, or so finished that either side may be used for the outside, in order that the same lock or cased fastening may answer for a right or left hand door, substantially as described.

"I also claim so constructing the bolt as herein before described, that by simply turning it over in the lock case, it is adapted to a right or left hand door."

It is in evidence, that the introduction of these cast iron Janus-faced locks was of great benefit to the public, that they very considerably reduce the price of locks, being made and sold cheaper than those which had been in use before their introduction, and that the introduction of the janus-faced lock into the market has driven almost all other low priced locks out of the market. See testimony of W. M. Edgar, R. T. Kennedy and John T. Logan.

## III. Amount of Damages.

After a full hearing of this case in the Circuit Court, a decree was made in favor of the complainants, sustaining the validity of the patent, and it was referred to a master to compute, ascertain and state an account of the profits and gains of the respondents, and damages sustained by the complainants.

The report of the master is briefly as follows:

The number and kind of locks manufactured by respondents in violation of the patent being ascertained, it appeared from the complainants' testimony, that the profits which they (the complainants) would have made, after deducting the usual average discount of 13½ per cent. to wholesale purchasers, was $26,488.13. This is the amount of simple damages claimed by complainants.

The amount of profit which the master found to have been actually received by the respondents since the sale of these locks, is $13,282.93, for which latter sum, after argument, the court entered a decree in favor of complainants.

The respondents, before the master, and in the hearing before the court, claimed that this amount of profit, being on the whole lock, should be further divided to ascertain the amount of profit made by them on each particular part of the lock, as follows:

| | |
|---|---|
| On the case alone, - - - - - - | $3,123.48 |
| On latch and keeper, - - - - - - | 1,221.53 |
| On other parts of the lock, - - - - - | 4,577.01 |
| On the trimmings, - - - - - - | 4,360.91 |
| | $13,822.93 |

This process of anatomization they pretend to justify on the ground that Sherwood's patent is only on the *case*, and therefore the complainants are only entitled to damages to the amount of $3,123.48.

It will be observed that the amount of damages awarded by the court was not the actual loss sustained by complainants, but the profits admitted by the statement furnished by the respondents to have been actually made by them.

In order to understand fully the merits of this question, it must be stated that the blunt bolt and beveled keeper used in the lock manufactured by respondents, as a substitute for the reversible bolt patented by Sherwood, was the subject matter of a patent granted to Calvin Adams, one of the respondents, in 1857, which patent had also been infringed by respondents, and for which infringement a suit in equity was brought at the same time with this suit, against these respondents, which resulted in a decree against the respondents, restraining them from the further violation of that patent.

That the double-faced case alone does not constitute a right and left lock, but that the reversible bolt of Sherwood, or the blunt bolt and beveled keeper of Adams, are also requisite to render the lock or janus-faced right and left lock.

That on the hearing of the case in the Circuit Court, it was understood that no damages were to be awarded to the complainant, in the suit against these respondents for infringement of the blunt bolt and beveled keeper patent, but the complainants in this case being entitled to damages on the whole lock as manufactured, and Adams being a party complainant in both suits, would not be entitled to any damages in the other case. And that the court decreed accordingly.

It is insisted, that the court was right in awarding damages in this case to the complainants, for the profits made on the whole lock as a unit.

This door lock possesses a marked peculiarity which distinguishes it from all others. While it belongs to the genus *lock*, it forms a new species; it is a right and left lock, equally adapted for use on a door opening to the right hand as to a door opening to the left hand, and that without the necessity of turning the lock so as to place the key hole upside down; because, both sides being alike, either may be exposed to view as the outside. The lock is so finished that either side may be placed outward, and the lock perform its functions, as such, equally well in either position. It is manifest, therefore, that

this invention is not confined to the case of the lock. The case alone is not a lock; it is not a *cased fastening* without the bolt, handle and key necessary to render it fit for use, as such.

Nor is this invention merely an improvement in a particular description of a lock. It is in itself a new kind of lock, combining in one a right hand lock and a left hand lock.

It is important, also, to the consideration of this question of damages, that this was the first lock of its kind. No locks which were both right and left hand locks were ever known or used before. *Sherwood was the first to invent any lock effecting this object*, and he conferred a great benefit on the public, as its introduction into public use reduced the price of locks, and gave a better lock at a lower price than had heretofore been known.

The complainants had a monopoly of the manufacture of right and left hand locks, a monopoly which they chose to preserve, as they were able to supply the great and increasing demand. The infringement of their right injured their monopoly, introduced competition, lessened their profits by reducing the price of their locks, and injured their business in its other branches, because the exclusive right to sell this popular and indispensable lock drew customers to their establishment.

The rule for the measure of damages for infringement of patent rights cannot be a fixed one, for each case has its own peculiarities; and a rule applicable to one class of cases would often do manifest injustice in others.

In some cases the patent is valuable as creating a monopoly. For example, the manufacture of india rubber goods. The value of the patent arises from the demand for an article the patentee alone can supply. In such a case, the measure of damage is the profit on the manufacture of the whole article, and not the difference in cost or profit between the manufacture of a coat or blanket of woolen and a similar article of rubber.

If in such cases the difference in cost of an article made of a patented material or by a patented process, and a similar article made of other material or by another process, were the

test, the result might be a loss instead of a profit, as compared with the unpatented article.

In this instance we have an example of the injustice which would be done by confining the award of damages to the profits made on the manufacture of the case or lock as distinguished from the other parts. The case is cast, and is easily and cheaply made; yet by reason of the advantages arising from the fact that the lock is double-faced, and otherwise adapted for use either as a right or left hand lock, it sells at a much larger profit in proportion to its cost than locks which do not possess this feature; one of these locks costing $10.64 per dozen will sell at $31.50 per dozen; in which case the profit on the whole lock is due to the *patented features*, and not to the mere manufacture.

There is another class of cases in which the measure of damages is necessarily different, as where the invention consists in some slight but important improvement in a well known article, machine or implement. For example, an improved cut-off for a steam engine, a wheel for a rail road car, or cutter for a planing machine, or needle or shuttle for a sewing machine. In any of these cases it would be manifestly wrong to give as damages the entire profits on the steam engine, rail road car, planing mill or sewing machine.

There are other cases, again, in which the value of the patent to the inventor or assignee depends not on the preservation of the monopoly, but in the free public use of the invention and the receipt of license fees therefor. In such cases the license fee which the plaintiff has been in the habit of charging is the criterion.

Another rule also obtains in cases of infringement of patent by use of a patented *machine*, which is of course entirely inapplicable in this instance, but this serves to show that the rule which the respondents seek to apply to this case, however well sustained by authority, is not by any means of universal application.

The case of *Seymour vs. M'Cormick*, 16 How. 480, was relied upon by the respondents in support of their mode of assessing the damages on the lock case only. That case, however, will not warrant any such doctrine. On the contrary, that case de-

cides that where the profits consist in a close monopoly, and the patentee is able to supply the whole demand at his own price, the measure of damages is the profits which the infringer made on the entire article manufactured.

In the case of *Livingston vs. Woodworth*, 15 How. 646, it is held that the rule of damages is the amount received by the infringee, not what he might have made by reasonable diligence. But that case was for use of a planing machine, and it did not follow that the plaintiff would have had the planing of all the boards planed by the defendant; whereas the contrary is the fact in this case, because the parties to this suit have their works within one square of each other in the same city, and the complainants never having granted licenses, the locks sold by the respondents would otherwise have been sold by the complainants.

Besides, a party infringing stands in a different position from the patentee, not having been at the expense of perfecting the patented article and making a market for it. Hence the party infringing may well afford to sell at a less profit than the owner of the patent, and in such cases the profit which the *complainants* would have made on the article sold by the respondents is the true measure of damages. *Pitts vs. Hall*, 2 Blatch. 238; *Foot vs. Silsby*, 1 Blatch. 459. 20 How 378 ×

The law presumes that if the defendant had not put his machines into the market the demand would have been for the plaintiff, and he would have received the profit. *Wildbur vs. Beecher*, 2 Blatch. 143.

| | |
|---|---|
| The amount of profits on the locks manufactured and sold by respondents, as calculated by the complainants, is | $26,488 13 |
| And by the respondents, - - - - - | 22,567 33 |
| Showing a difference of - - - - - - | $3,920 80 |

partly owing to the larger discount which they gave to customers in order to get business. They claim a still further reduction of $9,254.39, for current expenses of the works, wear and tear of machinery, grindstones, and *some special salaries not given in detail.* The only machinery used is grindstones, and as they make a great variety of other articles at their works, such as scales, coffee mills, bolts, hinges, corn shellers, copying

× Buck vs Hemmance 1 Blatch 398
Tease vs Huntingdon 23 How 9
N. York vs Ransom 23 How 487

presses, &c., these items of expense ought not to be allowed as a reduction. The salaries are not specified; probably they are to the partners, and as such, amount merely to a division of profits. Thus they seek out of profits by the sale of these locks, amounting, by their own statement, to $22,567.33, to pay us only $3,128.48, thus pocketing the nice little sum of $19,443.85 by their own tortious act.

The trimmings, the profits on which the respondents propose to deduct, are essential parts of the locks, which would be useless without them, and by reason of the superior character of and demand for these locks, the trimmings are sold as part of the locks, at a profit which they never would realize if attached to locks of other descriptions.

The infringement of the rights of the complainants in this case, was of the most aggravated kind, resulting from an effort on the part of the respondents to deprive them of the patent which they must have known the complainants had purchased, and the extension of which it was notorious they were actively engaged in procuring. The respondents thought they had succeeded in their scheme, and it was not until they found that their surreptitiously obtained title was worthless, that they endeavored to break down the patent, and then vindicate their wanton infringement of the complainants' rights. This is certainly a case in which the infringers have no claim to any mitigation of damages, and the complainants asked that the damages be trebled, which, however, the court held they had no power to do.

As this question has not been expressly decided, I will briefly state the argument in favor of the power of the court so to do, when, in their discretion, they deem the case a proper one for the infliction of punitive damages.

In equity, damages are not recoverable, excepting as incident to other relief, because there is an adequate remedy at law (2 Story's Equity, § 794), but this general rule does not apply to suits for infringement of patents, in this country. By act of 4th July, 1836, courts of equity do not in such cases act as ancillary to courts of law, but have original and independent jurisdiction. *Sickles vs. Gloucester Co.* 18 Leg. Int. p. 292. In England, a patentee having sustained his patent at

law, appeals to the courts of equity to obtain an adequate recompense for the violation of his patent privileges. (Hindmarch, p. 305–6.) The 14th § of act of 4th July, 1836, contains the only provisions in relation to the recovery of damages in such cases, and provides that "such damages may be recovered by action on the case in any court of competent jurisdiction." The 17th § provides that "all actions, suits, controversies and cases arising under any law of the United States granting or confirming to inventors the exclusive right to their inventions or discoveries, shall be originally cognizable *as well in equity as at law.*" The practice in equity as to evidence, follows the provisions of the act in relation to suits at law, not by express enactment but by analogy, *Orr vs. Merrill*, 1 Wood & Min. 376; and in *Wyeth vs. Stone*, 1 Story's Rep. 273, one of the statutory defences in an action at law was held good in equity, although the statute expressly refers to these defences in reference only to an action at law. As by a like analogy and accommodation the provisions of the 14th § of act of 1836 as to damages, authorizes the court to enter a decree in favor of complainant in equity for the damages proven, so it appears to me it equally warrants the court in compensating the complainant by trebling the damages in suitable cases.

The idea of thus compensating the owner of a patent whose rights have been wantonly invaded, is not new. See act of 1790, § 5; act of 1793, § 5; act of 1800, § 3, in which last act the penalty was, in all cases, a sum equal to *three times the actual damage.*

Why should not an inventor have as ample a remedy in equity as in law?

In *Dean vs. Mason*, 20 How. 203, we find the nearest approach to an authority on this point. *It was a bill of equity* for infringement of a patent, and the Supreme Court gives as a reason for restricting the amount awarded *by the Master* to the actual damage proven, *that in such case the court has power to increase it.*

While it is not supposed that this court will feel disposed to adopt the views of the appellants in this case on the question of damages, nor to alter the decree of the Circuit Court in

any respect, especially as in consideration of the damages in this case being assessed on the whole lock, no damages were awarded in the suit for infringement of the patent on the bolt and keeper, and as the value of Sherwood's patent consists in the monopoly of the right to manufacture a janus-faced right and left lock; yet inasmuch as the question of the right of a court sitting in equity to triple the damages reported by the master was raised on the argument and passed upon by the court, it is thought right to state in this brief the grounds of the views taken on behalf of the complainants, in order that the question may be set at rest.

WM. BAKEWELL,

*Counsel for Complainants.*